

A TRUE
ACCOUNT
OF THE
PROCEEDINGS
BEFORE THE
House of L O R D S;

(From Jan. 7. 1691. to Feb. 17. following)

B E T W E E N
The Duke and Dutchess of *Norfolk*:

Upon the Duke's B I L L,

E N T I T U L E D.

An Act to Dissolve the Marriage, &c.

O C C A S I O N E D

By Two Libellous PAMPHLETS
lately Published, and Dispersed
under the same Pretence and
Title.

L O N D O N,

Printed in the Year, M D C X C I I.

PROGESS

OF THE ENGLISH

PROGRESS

(or how to get on in the world)



Upon the Progress of

the English in the World

With a Foreword by

John Dryden

Edited by

Philip Lafford

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THE P R E F A C E.

THere have been lately printed, and made publick, Two scandalous Pamphlets ; the one under the Title of [The Proceedings before the House of Lords, between the Duke and Dutches of Norfolk :] The other is called [The farther Depositions and Proceedings in the House of Lords, in the Affair of the Duke and Dutches of Norfolk ; with the Bill of Divorce. Now these two Papers are so far from a faithful Narrative of the said Proceedings, that what with confounding the Order of the Transaction, and disguising the Truth of Things, by industrious missons, gross Imperfections, and wilful Mistakes. This pretended Account has made it absolutely necessary, even for the sake of common Justice, to set the World right in the Story : To which end the entire Series of this Affair is here set forth, in Point to Point, just as it passed before their Lordships, and stands upon their Journal ; with such Notes upon the Evidence on both sides, as the Nature of the Case requires, and as the Reason of it will fairly bear.

The Reader will observe here, upon this Relation, that the two Principal Witnesses produced against the Dutches of Norfolk, are Rowland Owen and Margaret Ellwood, for they swear positively to the stress of the Question, whereas all the rest is but Circumstantial, and made use of only for Aggravation, Prejudice, and Clamour : So that upon invalidating their Testimony, the main Cause falls finally to the Ground, saving only the unavoidable Misfortune of many an Innocent Person, that suffers under the Impossibility of proving a Negative ; there being no Fence against uncharitable Presumptions. Now taking this for granted, (it is not to be denied) the Reader is only desired to lay seriously to Heart the impossibility of the Fact that is sworn against the Dutches, in some Cases, and the utter impossibility of it to be true in others : The Tampering and Practice that has been used, the Inconsistency of the Witnesses with themselves, their Character, and Credit, &c. (one of them (Ann Burton) being trapt in a false Oath, out of her Mouth, upon the very place of Examination.)

The Reader will also take notice, that of Twenty Six Witnesses produced in favour of the Duke ; one half of them are Principals, and the other only Seconds. Peter Scriber, Andrew Anderson, Robert Hemming, John Reynolds, and Margaret Foster, are five of the former Number ; but speaking little or nothing in the Merits of the Question, it was not thought worth the while to offer Exceptions to their Testimony, though to the other Eight, that is to say, Owen, Ellwood, Hudson, Burton, Varell, Tho. Foster, Lloyd and Wadsworth ; there were several Witnesses on the behalf of the Dutches to invalidate their Credit (viz.) Two to the First, Six to the Second, Two to the Third, Four to the Fourth, One to the Fifth, Two to the Sixth, Two to the Seventh, and Six to the Last. It

is very remarkable also, after all these Exceptions to every one of the Duke's principal Witnesses, that the Testimony of the Dutchess's Witnesses passed current without any contradiction, saving only that Henry Daggley, and John Hosking were examined against the Credit of John Hall, in the Case of Jane Wadsworth (leaving four Witnesses more in the same Case untouched); and Edith Sawbridge, against the Testimony of Mrs. Judith Stourton, which Depositions the Reader will find to be of little or no moment, as to the matter in hand. This puts it past Dispute, that they had nothing more to say against the Witnesses for the Dutchess, but stopt at these three for want of farther Pretence. The Result in short is this, that all the material Witnesses to the Charge are Impeached, and the Evidence on the other side stands untainted. To say nothing of the unanswerable Reasons that prevailed with the Lords finally to reject the Bill, especially considering the Solemnity of the Proceedings: For the Cause was kept on from the 7th of January to the 17th of February following. All the Lords in and about the Town being summon'd, by an Order of the House bearing Date Die Veneris Feb. 12. 1691. to attend at Twelve of the Clock on the Tuesday following. And the Officers that summoned them to give an Account of what Lords they summoned; pursuant to which Order their Lordships met according to the Appointment: and after some previous Debates, Adjourned till the next Day, when the Depositions on both sides were read at the Table by the Clerk, as will be seen more at large on the following Journal. And after a long and solemn Debate, The Question being put, Whether the Bill entituled An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordan, and to enable the said Duke to Marry again, shall be read a second time.

It was Resolved in the Negative.



At a House holden in the Counsell Chamber upon Ouse-bridge, in the City of York, this Twenty Fifth day of August, in the Third year of the Reign of our Soueraign Lord and Lady William and Mary by the Grace of God King and Queen of England, &c. Annoq; Dom. 1691.

THE Zeal of their Majesties King William and Queen Mary to work a Reformation in Manners as well as in other things throughout their whole Kingdomes; is so manifest and ~~conspicuous~~, That with gratitude to Almighty God we acknowledge our great happiness in living under their gracious Government, who by their pious Examples do teach their Subjects to live virtuously and by their Precepts do require their Magistrates and Officers to punish all those that shall do otherways.

And therefore to restrain the detestable yet spreading sins of cursing, swearing, Drunkenness, and other enormities, and to prevent the frequent prophanation of the Lords Day, (so commonly prophaned) by people unnecessarily Travelling, Setting, or Exposing things to sale on that day, by excercising their ordinary Callings, by using other Employments, or vain Sports, and especially by Tippling thereon and neglecting the Worship and Service of God: We thought it our Duty strictly and impartially to put in Execution within this City, and County of the same City, all the Laws and Statutes of this Realm, provided against the Offences aforesaid. And to the intent that neither the Offenders nor those that ought to be instrumental in bringing the Offenders to condigne Punishment may pretend ignorance of the Laws; We do hereby make known, That

29. Fac. 1 cap. 20. convict before a Justice in his hearing, or by 2 witnesses or confession.

4. Fac. cap. 5. 21. Fac. 1. cap. 7. convict by view confession or one Witness.

4. Fac. 1. cap. 5. 21. Fac. 1. cap. 7. convict by view confession or one witness.

1. Fac. 1 chap. 9. 21. Fac. 1. cap. 7. convict by view confession or one witness.

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29. Cap. 2. cap. 7. convict by view confession or one witness.

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33. Hen. 8. cap. 9.



Whosoever shall prophainely Curse or Swear, he shall forfeit for every such offence 1s. to be levied by distress, and for want of such distress, to sit in the Stocks 3 hours, if the Offender be 12 years of age, and if he be under 12 years of age then to be whipt.

Whosoever shall be convicted of being Drunk, shall forfeit for every such Offence 5s. If he refuse to pay, it shall be levied by distress, and if he be not able to pay he shall sit in the Stocks 6 hours, and for the second Offence be bound to the good behaviour.

VVhosoever shall remain or continue Tippling, or Drinking, in any Inn Victualling-house, or Ale-house, shall forfeit 3s. 4d. to be levied by distress, and if not able to pay shall sit in the Stocks 6 hours.

Every Innkeeper, Victualler or Alehouse keeper, who shall permit or suffer persons to sit Tippling or Drinking in his house, shall forfeit for every such offence 10s. 1. Fac. cap. 9. and by the Statutes 7. Fac. 1. cap. 10. 2. 1. Fac. 1. cap. 7. be utterly disabled for 3 years to keep any Alehouse.

VVhosoever shall frequent or use any Bull batings, common Plays, or any other unlawfull Exercises, Sports, or Pastimes, on the Lords day, shall for every such Offence forfeit 3s. 4d. to be levied by distress, and for want of a distress the Offender shall sit in the stocks 3 hours.

VVhosoever Tradesman, Artificer, workman, Labourer, or other persons whatsoever, (being 14 years of age) shall do or exercise any worldly busines or work of their ordinary Calling on the Lords day, (except works of necessity and charity) shall for every such Offence forfeit 5s. to be levied by distress and for want of distress or inability in the offender to pay, shall sit in the Stocks 2 hours.

Whosoever shall publickly cry, shew, forth or expose to Sale any wares, Merchandizes, Fruit, Herbs, or other goods or chattells on the Lords day, shall forfeit the goods so cryed shewed or exposed to sale, which by warrant may be seised.

Every Drover, Horse-courser, Waggoner, Butcher, Higler, or their Servants, that shall travell or come into his Inn or Lodging on the Lords day, shall forfeit for every such Offence 20s. to be levied by distress, and for want of Distress or inability in the Offender to pay, he shall sit in the stocks 2 hours.

VVhosoever shall use employ or travel on the Lords day, with any Boat VWherry, &c. (Except on extraordinary occasion, to be allowed by some Justice) shall forfeit 5s. to be Paid as aforesaid or sit in the Stocks 2 hours.

Whosoever by himself, or his Servants shall keep, set up, or maintain any House or place, wherein Carding, Dicing, or any kind of unlawfull Gaming whatsoever is or shall be set up used or practiced, the keeper, settler up, or maintainer thereof shall forfeit for every day 40s.

Whosoever shall resort to, use or haunt, any such House or place, and shall there game or play shall forfeit for every time 6s. 8d.

If any person shall Receive, Entertain, or maintain any incontinent or lewd Women into their houses, unto which divers, loose persons, Apprentices, Servants, and other the youth of this City, do frequently resort, to the corruption of their Manners, and mispence of their time and estates, every such offender, as well the Keeper of such houses, as the Reporters to them, ought to find Sureties for their good behaviour, and are indictable and finable,

AND for the more effectuall preventing the prophanation of the Lords day, It is Ordered that such of the Posternes of this City, as the Lord Major for the time being shall think fit, shall be kept close shut every Lords day from Morning till Evening, and that every Barr of this City, shall be kept shut on every Lords day from nine till eleaven of the Clock in the Forenoon, and from halfe an hour after one of the Clock till three of the Clock in the Afternoon, and that none shall be suffered to come in or go out thereat, but upon good and lawfull occasions: And it is likewise Ordered that in Service and Sermon time on every Lords day, the Searchers in every Parish, shall walk through the Streets and also search such publick houses as they suspect, to have any lewd or disorderly persons in them, and bring all such persons as they shall find offending against the Laws, before the Lord Major of this City, or some other of their Majesties Justices of the peace, that they may be dealt withall according to Law.

And all and every the Constables, Church-wardens, Sidemen, and other Officers, and Ministers of Justice within this City, and County of the same City, are hereby required diligently to do and performe their severall and respective duties, in the due and effectuall prosecution of the laid Offenders, as the Laws and Statutes in the severall Cases abovementioned, have directed and provided.

And it is further ordered, that in case any of the said Officers shall fail or be negligent in their respective duties, That then the penalties (appointed by the severall Laws and Statutes above mentioned) shall be severely inflicted upon them for their Neglect.

And to the intent that no Constable or any other Officers, may be slack, or any ways discouraged in their lawfull and due prosecution of the promises, it is hereby Ordered and declared, that if they or any of them shall be Resifted, vexed, or molested, in the just and lawfull execution of their respective Duties, they shall be Encouraged, Defended, and vindicated by this House, and the Offenders shall be prosecuted and punished according to Law.

Die Veneris 8 Januarii, 1691.

A Bill having been offered to this House, on the behalf of the Duke of Norfolk, to dissolve the Marriage between the said Duke and his Dutchess; It was ordered by the Lords Spiritual and Temporal in Parliament assembled, that Her Grace shall have notice thereof, and may be heard, by her Counsel, at the Bar of this House, on Tuesday next at 12 of the Clock; what she hath to object against the receiving the said Bill; at which time the said Duke may also be heard by his Counsel, for the said Bill, if he shall think fit.

Matth. Johnson, Cler' Parlimentor.

Die Martis 12 Januarii, 1691.

A fter hearing Counsel this day, at the Bar, what they could object for her Grace the Dutchess of Norfolk, against the receiving of a Bill offered by his Grace the Duke of Norfolk, to dissolve the Marriage between him and his Dutchess: As also the Counsel of his Grace the Duke of Norfolk for receiving the said Bill. And after Consideration of what was offered by Counsel, on either side, and a long Debate thereupon:

This Question was put.

Whether the Duke of Norfolk's Bill should be received? It was Resolved in the Affirmative.

Which Bill is as followeth.

An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordant, and to enable the said Duke to Marry again.

Forsasmuch as *Henry Duke of Norfolk, and Earl Marshal of England*, having been Married to the *Lady Mary Mordant*, hath made full proof that his said Wife is guilty of, and hath committed Adultery on her part: And forasmuch as the said *Henry Duke of Norfolk* hath no Issue, nor can have any probable expectation of Posterity to succeed him in his Honours, Dignities and Estate, unless the said Marriage be declared void, by Authority of Parliament, and the said Duke be enabled to Marry any other Woman. The King and Queens Most Excellent Majesties, upon the Humble Petition of the said *Henry Duke of Norfolk*, having taken the Premises into their Royal Consideration, for divers weighty Reasons, are pleased that it be Enacted, And be it Enacted, by the King and Queens Most Excellent Majesties, and by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Marriage between the said *Henry Duke of Norfolk* and the said *Lady Mary* his Wife, shall from henceforth be null and void; and

and is by Authority of this present Parliament Declared, Adjudged, and Enacted to be null, and void, to all Intents, Constructions, and Purposes, whatsoever. And that it shall and may be lawful to, and for the said *Henry Duke of Norfolk*, at any time, or times, hereafter, to Contract Matrimony, and to Marry (as well in the Life-time of the said *Lady Mary*, as if she were naturally dead) with any other Woman, or Women, with whom he might lawfully marry, in case the said *Lady Mary* was not living: And that such Matrimony, when had and celebrated, shall be a good, just, and lawful Marriage, and so shall be adjudged, deemed and taken, to all Intents, Constructions and Purposes. And that all and every Children, and Child, born in such Matrimony, shall be deemed, adjudged and taken, to be born in lawful Wedlock, and to be Legitimate and Inheritable, and shall inherit the said Dukedom of *Norfolk*, Office of Earl Marshal of *England*, and all other Earldoms, Dignities, Baronies, Honours, and Titles of Honour, Lands, Tenements, and other Hereditaments, from, and by, their Fathers, Mothers, and other Ancestors, in like manner and form, as any other Child, or Children, born in lawful Matrimony, shall or may inherit, or be inheritable, according to the Course of Inheritances used in this Realm: And to have and enjoy all Priviledges, Preheminencies, Benefits, Advantages, Claims and Demands, as any other Child, or Children, born in lawful Wedlock, may have, or claim, by the Laws or Customs of this Kingdom. And be it farther Enacted, That the said *Henry Duke of Norfolk* shall be Intituled to be Tenant, by Courtesy, of the Lands and Inheritance of such Wife, whom he shall hereafter marry: And such Wife as he shall so marry, shall be Intituled to a Dower of the Lands and Tenements of the said *Henry Duke of Norfolk*, and of such Estate whereof she shall be Dowable, as any other Husband, or Wife, may, or might claim, have, or enjoy: And the Child, or Children, born in such Marriage shall, and may, derive and make Title, by Descent or otherwise, to, and from any their Ancestors, as any other Child, or Children may do, any Law, Statute, Restraint, Prohibition, Ordinance, Canon, Constitution, Prescription or Custom, had, made, exercised, or used to the contrary of the Premisses, or any of them, in any wise notwithstanding. And be it further Enacted, by the Authority aforesaid, That the said *Lady Mary* shall be, and is hereby barred and excluded of, and from all Dower and Thurds, and of, and from, all Right and Title of Dower, and Thirds, unto, or out of any the Honours, Mannors, Lands or Hereditaments of the said Duke. And that all Conveyances, Jointures, Settlements, Limitations and Creations of Uses and Trusts, of, into, or out of, any Honours, Mannors, Lands or Hereditaments, at any time heretofore made by the said Duke, or any of his said Ancestors, or Trustees, unto, or upon, or for the use or benefit of the said *Lady Mary*, or any the Issue of her Body, or for raising, discharging or counter-securing any the Mannors, Lands or Hereditaments of the said *Lady Mary*, or any of her Ancestors, shall be from henceforth utterly void, and of none effect: And all and every the said Honours, Mannors, Lands or Hereditaments of the said Duke, or any of his Ancestors, or Trustees, shall from henceforth remain, and be to, and for, the use and benefit of the said Duke, and such other Person, or Persons, and for such Estates and Interests, and in such manner and form, as if the said *Lady Mary* was now naturally dead, without any Issue of her Body. And also, That all Limitations and Creations, of any Use, Estate, Power or Trust, made by any of the Ancestors of the said *Lady Mary*, unto, or for the use or benefit of the said Duke,

A True ACCOUNT of the Proceedings, before the House of Lords (from January the 7th. 1691, to the 17th of February following) between the Duke and Duchess of Norfolk, upon the Duke's Bill, Entituled, An Act to Dissolve the Marriage, &c.

The 7th of January the said Bill was lodg'd in the House of Lords.

The 8th of January.

THE Duchess of *Norfolk*, having received Intimation, that the Duke of *Norfolk* was this Day offering a Bill to the House of Lords, for Dissolving the Marriage between them, and that the same was under Debate before their Lordships; She was advised to present the following Petition.

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Duchess of Norfolk.

Sheweth;

THAT your Petitioner being informed, that the Duke of *Norfolk* is at this time offering a Bill to your Lordships, for Dissolving the Marriage between him and your Petitioner,

Your Petitioner Humbly prays she may be heard by Your Lordships, before such Bill be received.

And Your Petitioner will ever pray, &c.

M. Norfolk.

Upon which Petition their Lordships were pleased to make the following Order (viz.)

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Die Veneris 8 Januarii, 1691.

A Bill having been offered to this House, on the behalf of the Duke of Norfolk, to dissolve the Marriage between the said Duke and his Dutchess; It was ordered by the Lords Spiritual and Temporal in Parliament assembled, that Her Grace shall have notice thereof, and may be heard, by her Counsel, at the Bar of this House, on *Tuesday* next at 12 of the Clock; what she hath to object against the receiving the said Bill; at which time the said Duke may also be heard by his Counsel, for the said Bill, if he shall think fit.

Matth. Johnson, Cler' Parliamentor.

Die Martis 12 Januarii, 1691.

A fter hearing Counsel this day, at the Bar, what they could object for her Grace the Dutchess of Norfolk, against the receiving of a Bill offered by his Grace the Duke of Norfolk, to dissolve the Marriage between him and his Dutchess: As also the Counsel of his Grace the Duke of Norfolk for receiving the said Bill. And after Consideration of what was offered by Counsel, on either side, and a long Debate thereupon:

This Question was put.

Whether the Duke of Norfolk's Bill should be received? It was Resolved in the Affirmative.

Which Bill is as followeth.

An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordant, and to enable the said Duke to Marry again.

Forsasmuch as *Henry Duke of Norfolk, and Earl Marshal of England*, having been Married to the Lady *Mary Mordant*, hath made full proof that his said Wife is guilty of, and hath committed Adultery on her part: And forasmuch as the said *Henry Duke of Norfolk* hath no Issue, nor can have any probable expectation of Posterity to succeed him in his Honours, Dignities and Estate, unless the said Marriage be declared void, by Authority of Parliament, and the said Duke be enabled to Marry any other Woman. The King and Queens Most Excellent Majesties, upon the Humble Petition of the said *Henry Duke of Norfolk*, having taken the Premises into their Royal Consideration, for divers weighty Reasons, are pleased that it be Enacted, And be it Enacted, by the King and Queens Most Excellent Majesties, and by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Marriage between the said *Henry Duke of Norfolk* and the said *Lady Mary* his Wife, shall from henceforth be null and void; and

and is by Authority of this present Parliament Declared, Adjudged, and Enacted to be null, and void, to all Intents, Constructions, and Purposes, whatsoever. And that it shall and may be lawful to, and for the said *Henry Duke of Norfolk*, at any time, or times, hereafter, to Contract Matrimony, and to Marry (as well in the Life-time of the said *Lady Mary*, as if she were naturally dead) with any other Woman, or Women, with whom he might lawfully marry, in case the said *Lady Mary* was not living: And that such Matrimony, when had and celebrated, shall be a good, just, and lawful Marriage, and so shall be adjudged, deemed and taken, to all Intents, Constructions and Purposes. And that all and every Children, and Child, born in such Matrimony, shall be deemed, adjudged and taken, to be born in lawful Wedlock, and to be Legitimate and Inheritable, and shall inherit the said Dukedom of *Norfolk*, Office of Earl Marshal of *England*, and all other Earldoms, Dignities, Baronies, Honours, and Titles of Honour, Lands, Tenements, and other Hereditaments, from, and by, their Fathers, Mothers, and other Ancestors, in like manner and form, as any other Child, or Children, born in lawful Matrimony, shall or may inherit, or be inheritable, according to the Course of Inheritances used in this Realm: And to have and enjoy all Priviledges, Preheminencies, Benefits, Advantages, Claims and Demands, as any other Child, or Children, born in lawful Wedlock, may have, or claim, by the Laws or Customs of this Kingdom. And be it farther Enacted, That the said *Henry Duke of Norfolk* shall be Intituled to be Tenant, by Courtesy, of the Lands and Inheritance of such Wife, whom he shall hereafter marry: And such Wife as he shall so marry, shall be Intituled to a Dower of the Lands and Tenements of the said *Henry Duke of Norfolk*, and of such Estate whereof she shall be Dowable, as any other Husband, or Wife, may, or might claim, have, or enjoy: And the Child, or Children, born in such Marriage shall, and may, derive and make Title, by Descent or otherwise, to, and from any their Ancestors, as any other Child, or Children may do, any Law, Statute, Restraint, Prohibition, Ordinance, Canon, Constitution, Prescription or Custom, had, made, exercised, or used to the contrary of the Premisses, or any of them, in any wise notwithstanding. And be it further Enacted, by the Authority aforesaid, That the said *Lady Mary* shall be, and is hereby barred and excluded of, and from all Dower and Thirds, and of, and from, all Right and Title of Dower, and Thirds, unto, or out of any the Honours, Mannors, Lands or Hereditaments of the said Duke. And that all Conveyances, Jointures, Settlements, Limitations and Creations of Uses and Trusts, of, into, or out of, any Honours, Mannors, Lands or Hereditaments, at any time heretofore made by the said Duke, or any of his said Ancestors, or Trustees, unto, or upon, or for the use or benefit of the said *Lady Mary*, or any the Issue of her Body, or for raising, discharging or counter-securing any the Mannors, Lands or Hereditaments of the said *Lady Mary*, or any of her Ancestors, shall be from henceforth utterly void, and of none effect: And all and every the said Honours, Mannors, Lands or Hereditaments of the said Duke, or any of his Ancestors, or Trustees, shall from henceforth remain, and be to, and for, the use and benefit of the said Duke, and such other Person, or Persons, and for such Estates and Interests, and in such manner and form, as if the said *Lady Mary* was now naturally dead, without any Issue of her Body. And also, That all Limitations and Creations, of any Use, Estate, Power or Trust, made by any of the Ancestors of the said *Lady Mary*, unto, or for the use or benefit of the said Duke,

Duke, his Heirs or Assigns, out of any the Mannors, Lands or Hereditaments, of any of the Ancestors of the said Lady *Mary*, shall be from henceforth void and of none effect.

13 Januarii, 1691.

THe Duke of *Norfolk's* Bill aforesaid, having been yesterday received and read. The Dutches of *Norfolk* presented the following Petition to Their Lordships this Day.

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Dutches of Norfolk,

Sheweth,

THAT your Petitioner being Married to the Duke of *Norfolk* 14 Years and upwards, never had, or received, from her Husband, any Intimation of a Misdemeanor, on her part, against him; which, joined to her Innocency of the Crime mentioned in the Bill, makes this Proceeding before your Lordships very surprizing to her: Her Person, Estate, and Honour, which is more dear to her than her Life, being now brought in question.

Your Petitioner humbly prays she may have a Copy of the particular Charge against her, with the Names of the Witnesses, and reasonable time allowed her to answer the same, before any farther Proceedings upon the Bill.

Mary Norfolk.

Upon which Petition the following Order was made.

Die Mercurii 13 Januarii, 1691.

Upon reading the Petition of *Mary Dutches of Norfolk*, It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That Sir *Richard Reynes*, Sir *Charles Hedges*, and Dr. *Oxenden*, do attend this House to Morrow at ten of the Clock in the Forenoon.

Matth. Johnson, Cler' Parliamentor.

14 Januarii, 1691. After having heard the Civil Lawyers, the following Order was made.

Die Jovis 14 Januarii, 1691.

After hearing this day the Civil Lawyers, pursuant to the Order Yester-day, upon reading the Dutches of *Norfolk's* Petition, It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That his Grace the Duke of *Norfolk* shall bring in the Charge against his Dutches, and particularly to the Person, Time and Place, by Saturday next, at 12 of the Clock.

Matth. Johnson, Cler' Parliamentor.

16 Jan-

16 Januarii, 1691.

This Day the Duke of Norfolk brought in the following Charge against his Dutches.

The Charge which Henry Duke of Norfolk, Earl Marshal of England, doth exhibit against his Wife Mary Dutches of Norfolk, before the Lords Spiritual and Temporal in Parliament assembled, pursuant to their Lordships Order of the 14th of January, 1691, is for the Crime of Adultery.

THe Person charg'd to commit the said Crime with the said Dutches, is *John Germaine*, of the Parish of St. Margaret's, in the Liberty of Westminster.

The Times when the said Crime was committed, were between the Months of June and December, 1685, and several times since.

The Places where the said Crime was committed, are at *Whitehal, Windsor, and within the Parishes of St. Margaret's Westminster, St. Martin's in the Fields, St. James's, St. Ann's within the Liberty of Westminster: And in the Parish of Lambeth, in the County of Surrey.*

Norfolk, and Marshal.

Upon which the following Order was made.

Die Sabbati, 16 Januarii, 1691.

Upon reading, this day, the Charge, which *Henry Duke of Norfolk, Earl Marshal of England*, hath exhibited against his Wife, *Mary Dutches of Norfolk*, for the Crime of Adultery. It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That her Grace the Dutches of Norfolk, do attend this House on *Monday next*, or some Person on her behalf, then to receive a Copy of the Charge against her.

Matth. Johnson, Cler' Parliamentor.

19 Januarii, 1691.

The Answer of Mary Dutches of Norfolk, to the Charge exhibited against her by the Duke of Norfolk, before the Lords Spiritual and Temporal in Parliament assembled.

This Respondent is advised, that the Charge exhibited by the Duke of Norfolk into this Honourable House against her, as to Time, and Place, is too general, and is not pursuant, nor doth answer the end of your Lordships Order, of the 14th Instant, made upon the humble Petition of this Respondent. Wherefore she doth humbly hope, and pray, your Lordships

ships will not oblige her to make any further Answer, till the Duke shall bring in a particular, and certain Charge, as to Time, and Place, against her.

And this Respondent doth the rather humbly insist, That your Lordships would please to require the Duke to be particular, and certain, in these material Circumstances of his Charge against her; for that it appears, by his own shewing therein, that the supposed Crimes objected to her, and alledged to be committed, were above 6 Years before the Bill was offered to this Honourable House: during most of which time, at the advice, and by the approbation of the Duke, was, and continued beyond the Seas, to ease him in his Charge, and Part; He frequently declaring, that when he should be more easy in his Fortune, they should live together.

M. Norfolk.

Upon which Answer the following Order was made. And the Duke's Second Charge delivered in the same Day.

Die Martis, 19 Januarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That her Grace the Dutchess of *Norfolk* shall have a Copy of the Duke's Charge delivered this day against her: And that she, or Sir *Thomas Pinfold*, do attend this House, to Morrow at 11 of the Clock in the Forenoon, to answer to the said Charge.

Matth. Johnson, Cler' Parliamentor.

Which Copy is as followeth.

The Charge which Henry Duke of Norfolk, Earl Marshal of England, doth exhibit against his Wife Mary Dutchess of Norfolk, before the Lords Spiritual and Temporal in Parliament assembled, pursuant to Their Lordships Order of the 14th of January, 1691, is for the Crime of Adultery.

THe Person charged to commit the said Crime with the said Dutchess, is one *John Germaine*, of the Parish of St. *Margaret's Westminster*.

The Times, and Places, when the said Crime was committed, were at *Whitehall*, in the Months of *June, July, August*, some, or one of them, in the Year 1685. At *Windfor* in the Months of *July, August, or September*, some, or one of them, in the said Year 1685. In the Parish of St. *Margaret's Westminster*, *March, April, May, June*, some, or one of them, in the Year of our Lord 1690. And in the said Parish of St. *Margaret's Westminster*, in the Months of *July or August 1690*. In the Parish of *Lambeth*, in the County of *Surrey*, in the Months of *May, June, July, August*; some, or one of them, in the Year 1691.

Norfolk, and Marshal.

Upon which, the next Day (viz.) the 20th of January, 1691, the Dutchess of *Norfolk* presented the following Petition.

To

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Dutches of Norfolk,

Sheweth,

THAT your Petitioner was served with an Order of this Honourable House, late last Night, to attend your Lordships this Day, by Eleven of the Clock, either in Person, or by Sir *Thomas Pinfold*, to answer to a new Charge brought in against her, by her Husband the Duke of *Norfolk*.

Your Petitioner is advised, That, for her just Defence, it is necessary to alledge in her Answer several special Matters relating both to the Duke and her self.

That in this short time appointed by Your Lordships, your Petitioner finds it impossible to instruct Counsel, to prepare such an Answer as she is advised is necessary to put in.

Wherefore Your Petitioner Humbly prays Your Lordships, she may have convenient time to put in her Answer to the said Charge.

And Your Petitioner will ever pray, &c.

M. Norfolk.

Upon which the following Order was made.

Die Mercurii 20 Januarii, 1691.

Upon reading the Petition of *Mary Dutches of Norfolk*, praying that She may have convenient time for answering to the Charge put in against her, by his Grace the Duke of *Norfolk*, Yesterday. It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That her Grace the Dutches of *Norfolk* shall peremptorily answer, by her Self, or Proctor, to the said Charge, to Morrow at Eleven of the Clock in the Forenoon.

Matth. Johnson, Cler' Parliamentor.

Accordingly, *January the 21st.*

The Dutches of *Norfolk* delivered in the following Answer.

I *Mary Dutches of Norfolk*, under Protestation, That the pretended Charge of Adultery given against me, in the Honourable House of Peers, was, and is, general, insufficient, and such as, I humbly conceive, I am not bound by Law to give answer unto. Yet knowing my own Innocency, and that I am not guilty of the pretended Crime, this Protestation being Sacred to me, I shall, and do, under the Matters and Qualifications hereafter mentioned, answer,

answer, and say, hereby affirming, That having been married to his Grace the Duke of *Norfolk*, for near 15 Years, he never did (till this pretended Charge given against me) in the least pretend, or intimate, unto me, that I had ever injured his Bed ; but did always treat me with great Kindness and Respect. And about the Year 1685, at his request, and desire, I did go with him from *London* to *France*, and there continued with him for some time ; where his Grace, being under an Indisposition, and continuing so for some time, He shewed such Affection to me, and put so great Trust and Confidence in me, that all such things that were administered to him, in order to his Recovery, He did not, nor would receive any of them but what came from my Hands ; and I did with great care attend him : And being recovered, He told me his Occasions required him to go for *England*, but he would return to me in *France* within some short time, and bring Me home to *England* ; and at his parting with Me, he shewed great Affection to Me, and in great Passion of Love, with Tears in his Eyes, said, He had Ten Thousand Pardons to ask Me, desiring my Patience, and that I should return into *England* to him in some short time. And after his Grace's return into *England*, he having notice from me, that my Lodgings was inconvenient, and desiring his leave to change the same, He wrote me word very affectionately, that God forbid he should constrain me to any Inconveniency, and left me to my Liberty therein. And before his parting with me, in *France*, as a Testimony of his Love and Affection to me, He ordered 400 l. yearly to be paid unto me, out of his own Estate, by Quarterly Payments, over and above the separate Maintenance settled upon me, by my Father, upon my Marriage with him. And that after his Arrival in *England*, he made several Visits to my Mother, the Countess of *Peterborow* ; and with great Observance, and Respect, ask'd her Blessing, and told her, he had left me well, and safe, in *France* ; and said, that his own Debts were pressing upon him ; but if her Daughter (meaning my Self) would consent that the Mannor of *Drayton*, and other places, should be settled upon him, and his Heirs, he should thereby be made a Happy Man. And I coming into *England*, his Grace having put off House-keeping, and dwelling in the Countess of *Peterborow*'s Lodgings, in *St. James's*, for about two Years ; and I suing him for Alimony (the said 400 l. a Year not being paid unto me) He did not, during that Suit, object any Critic against me, which had been proper for him to have done, to avoid Alimony, if I had been guilty. And I, the said *Mary Dutches* of *Norfolk*, being at *Drayton* in *Northamptonshire*, his Grace did write very affectionately to me. And that Disturbances happening in those parts, in November 1688, I left *Drayton* ; and, with the consent of the Duke, went beyond Seas, and there continued till sent for by my Father and Mother, and then returned ; which was in or about October 1691, with the Duke's consent. And then Applications being made to me by the Duke my Husband, to join with him in the Sale of *Castle-Rising*, and other Estates : But I being advised this must be injurious to me, could not joyn therein, which I humbly apprehend to be the true Cause and Occasion of this proceeding against my Honour, on the Duke my Husband's part.

And I the said *Mary Dutches* of *Norfolk*, adhering to my Protestation of my Innocency, and denying that I am guilty of the pretended Crime charged against me, and being unwilling to Impeach my Husband of any Crime whatsoever ; yet being advised, That, by the Laws of the Land, a Husband suing a Divorce for the Adultery of his Wife, he ought not to obtain any Sentence of Divorce, if he be proved Guilty of the same.

Where-

Wherefore this Respondent doth aver, and is ready to prove, that the Duke her Husband was, and is Guilty of Adultery, and hath continued in the Course of Adultery for these ten Years last past, and doth so continue.

My Lords,

IT is my Misfortune to be thus accused, I had rather stand charg'd for High-Treason before your Lordships, than with this Ignominious Crime. In the Charge for High-Treason, the manner of Tryals, and the ways of Proceedings, are known; so is the Punishment in this Case against me.

Your Lordships are now creating new ways of Proceeding against me, and a new Law to punish me; and this for a Crime suppos'd, and alledg'd to be committed seven Years past, in another Reign, after publick Indemnities in the Sessions of Parliaments, many Sittings of Parliaments, and Dissolutions of others, without mentioning this Crime against me. My Counsels are to seek how to advise my Defence in the Proceeding, being altogether strange, and without President, or Example.

I find my Prosecution now to be very violent, and my Proceeding to be very swift upon me, having had but one Night to prepare my Answer to this General Charge. I do in this Place publickly declare, I am Innocent of what is objected to me, and am not guilty of defiling my Husband's Bed: I am not guilty of the Crime charg'd against me. I hope (being thus accused) I may, without Vanity and Vain-Glory, say, what is well known, That I am not only the Duke of *Norfolk's* Wife, but also Born and Descended from Parents and Ancestors of the Ancient Nobility; That your Lordships Ancestors, and my Ancestors, who sat in this House, knew no such Proceeding: it is with regret that I bring this Answer for my Self, and against my Husband, but it being my Defence, I hope you will excuse me.

And if your Lordships shall, in your great Wisdom, proceed farther in this matter, I hope, and do most heartily pray, that I may hereafter have convenient time to make my Proofs, and full Defence; and then I doubt not of your Lordships Justice to me, as well as for my Husband, who Sits and Votes with your Lordships.

M. Norfolk.

Upon the delivering the said Answer, the next Day the following Order was made.

Die Veneris 22 Januarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That his Grace the Duke of *Norfolk* shall produce his Witnesses, to Morrow at Ten of the Clock in the Forenoon, to be sworn. And that her Grace the Dutches of *Norfolk* do attend this House, by her Self, or Proctor, at the same time; and may have Orders for Witnesses if she pleases.

Matth. Johnson, Cler' Parliamentor.

Accordingly, 23 January 1691, the Duke's Witnesses were produced: and whose Names are as followeth.

<i>Margaret Ellwood</i>	<i>Andrew Anderson</i>	<i>John Hall</i>
<i>Ann Burton</i>	<i>Thomas Foster</i>	<i>Mary Hall</i>
<i>Rowland Owen</i>	<i>Margaret Foster</i>	<i>William Baily</i>
<i>Thomas Hudson</i>	<i>Jane Wadsworth</i>	<i>John Wood</i>
<i>Simon Varely</i>	<i>Mary Boyle</i>	<i>Richard Owen</i>
<i>Peter Scriber</i>	<i>Rice Jones</i>	<i>Henry Dagley</i>
<i>John Reynolds</i>	<i>Ann Jones</i>	<i>William Miles</i>
<i>Thomas Lloyd</i>	<i>John Hoskins</i>	<i>John Colvin.</i>

After these several Witnesses were produc'd, on behalf of the Duke of Norfolk, and had given in their several Places of aboard, &c. The following Oath was administred to them.

You shall true Answer make to all such Questions as shall be asked you by this Honourable House, in relation to the Charge of Adultery, brought in by the Duke of Norfolk, against the Dutches of Norfolk, with John Germaine; you shall declare your whole Knowledge of this matter, and shall speak the Truth, the whole Truth, and nothing but the Truth, as well upon the matter you shall be examined on behalf of his Grace the Duke of Norfolk, as upon such Interrogatories as shall be exhibited on behalf of the Dutches of Norfolk, without Favour or Affection to either Party.

So help you God, and by the Contents of this Book.

After the Oath administred, as aforesaid, the following Order was made.

Die Sabbati 23 Januarii, 1691.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Dutches of Norfolk's Proctor shall have a Copy of what was taken upon Swearing the Duke of Norfolk's Witnesses at the Bar; and that the Duke's Witnesses shall give in their Evidence at the Bar, on Tuesday next at Ten of the Clock in the Forenoon: and that the Dutches of Norfolk, by her Self, Proctor and Counsel, shall attend, together with the Duke's Proctor and Counsel, at the same time.

Matth. Johnson, Cler' Parliamentor.

After Examination of Witnesses, on behalf of the Duke, the following Order was made.

Die Martis 26 Januarii, 1691.

After hearing this day, the Witnesses on the behalf of his Grace the Duke of Norfolk; It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That Friday next, at Ten of the Clock in the Forenoon, shall be, and is hereby appointed, for her Grace the Dutches of Norfolk to make her Defence, by her Proctor, or Counsel; and that his Grace the Duke of Norfolk's

Norfolk's Counsel and Proctor be then present, and the Witnesses who, this day, delivered their Evidence, or Oaths, on his Grace's behalf: And that the Dutches may have an Order for such Witnesses, as she shall think fit to make use of, on her Grace's behalf.

Matth. Johnson, Cler^r Parliamentor.

Upon which Order, the Dutches was advised to present the following Petition.

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled,

The Humble Petition of Mary Dutches of Norfolk,

Sheweth,

THAT since the Examination of Witnesses before your Lordships against your Petitioner, upon *Tuesday* last, the utmost endeavour and diligence hath been used, to prepare for her Defence against the time appointed by your Lordships.

That your Petitioner is very much concerned, that, for the necessary Defence of her self, she should be forced to lie under the Charge sworn against her, one moment beyond the time given her by your Lordships.

But, upon a Consultation with her Counsel and Solicitor last Night; she is advised, that it is absolutely necessary for her to Address to your Lordships for time, till *Monday* next, to bring in her Defence, some of her most material Witnesses being remote from *London*; and though she has sent for them, and used all means possible to get them ready, by the time appointed, she cannot be able to have them here before *Monday* next.

Wherefore Your Petitioner humbly prays your Lordships, (it being a Case of the highest concern and utmost importance to your Petitioner) to give her time, till *Monday* next, to bring in her Defence.

And Your Petitioner shall ever pray, &c.

M. Norfolk.

Upon which Petition the following Order was made.

Die Veneris, 29 Januarii, 1691.

WHEREAS this day was appointed for her Grace the Dutches of *Norfolk* to make her Defence; upon reading the Petition of her Grace the Dutches of *Norfolk*, praying, (it being a case of the highest concern, and utmost importance to her) to give her time, till *Monday* next, to bring in her Defence; after hearing her Counsel at the Bar, and upon Oath made that some of the Dutches's Material Witnesses are out of Town, It is Ordered by the Lords

Lords Spiritual and Temporal in Parliament assembled, That her Grace the Dutches of *Norfolk* hath hereby time given her for making her Defence, until *Monday* the First Day of *February* next, at Eleven of the Clock in the Forenoon.

Matth. Johnson, Cler' Parliamentor.

Accordingly the Dutches of *Norfolk* began her Defence: and the following Order was made.

Die Lunæ, 1 Februarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That on *Wednesday* next, at Eleven of the Clock in the Forenoon, the House shall proceed in hearing the Dutches of *Norfolk*'s Evidence; and that all the Witnesses that have been sworn on either side do then attend the House.

Matth. Johnson, Cler' Parliamentor.

Which they did, and the following Order was made.

Die Mercurii, 3 Februarii, 1691.

After having this Day heard several Witnesses on behalf of her Grace the Dutches of *Norfolk*, as also for his Grace the Duke of *Norfolk*, It is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That her Grace the Dutches of *Norfolk*'s Counsel shall proceed in her Grace's Defence on *Saturday* next at Twelve of the Clock.

Matth. Johnson, Cler' Parliamentor.

They proceeded accordingly, and the following Order was made.

Die Sabbati, 6 Februarii, 1691.

After having this day heard several Witnesses on the behalf of the Dutches of *Norfolk*, It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Council for his Grace the Duke of *Norfolk* shall proceed to examine Witnesses on *Tuesday* next at Twelve of the Clock.

Matth. Johnson, Cler' Parliamentor.

Which accordingly they did, and the following Order was made.

Die Martis, 9 Februarii, 1691.

After hearing some Witnesses this Day, on the behalf of his Grace the Duke of *Norfolk*, It is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That the Counsel for his Grace the Duke of *Norfolk*, as also the Counsel for her Grace the Dutches of *Norfolk*, shall be heard on

on Thursday next at Twelve of the Clock, to sum up the Evidence on either side ; and that Mrs. Sawbridge, and Mrs. Stourton, do then attend to be heard.

Matth. Johnson, Cler' Parliamentor'.

The Counsel attended accordingly, but not heard ; and their Lordships were pleased to make the following Order.

Die Jovis, 11 Februarii, 1691.

IT is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That the Counsel for his Grace the Duke of Norfolk, as also the Counsel for her Grace the Duchess of Norfolk, shall be heard to Morrow at one of the Clock in the Afternoon, to sum up the Evidence on either side ; and that Mrs. Sawbridge, and Mrs. Stourton, do then attend to be heard.

Matth. Johnson, Cler' Parliamentor'.

After Evidence summed up, this following Order was made.

Die Veneris, 12 Februarii, 1691.

After hearing this Day the Counsel, and a Civilian, for his Grace the Duke of Norfolk ; and also Counsel, and a Civil Lawyer, for her Grace the Duchess of Norfolk, who summed up the Evidence for their Graces severally, It is Ordered by the Lords Spiritual and Temporal, in Parliament assembled, That on Tuesday next, at Twelve of the Clock, this House shall proceed in the debate of this Business ; and that then no other Business whatsoever shall intervene : And that all the Lords in and about the Town shall be summoned then to attend ; and that the Officers that summon them give the House an account of what Lords they summon.

Matth. Johnson, Cler' Parliamentor'.

The Matter was accordingly entered upon ; and after some previous Debates by their Lordships, they were pleased to adjourn till the next Day, when they proceeded, (viz.)

Die Mercurii, 17 Februarii, 1691.

THe Deposition taken at several Times before, on the behalf of his Grace the Duke of Norfolk, as also those taken on the behalf of her Grace the Duchess of Norfolk, were read at the Table, by the Clerk.

After long Debate thereon, The Question was put.

Whether the Bill Entituled, An Act to Dissolve the Marriage of Henry Duke of Norfolk, Earl Marhal of England, with the Lady Mary Mordant, and to enable the said Duke to Marry again, shall be Read a Second Time ?
It was Resolved in the Negative.

Matth. Johnson, Cler' Parliamentor'.

The *Proceedings* of the *L O R D S* upon the *Evidence*.

Rowland Owen *Examined on the behalf of the Duke of Norfolk, against the Dutchess of Norfolk.*

Rowland Owen saith, that Mr. Reyner, about Six Years since, being the Duke of Norfolk's Butler, ordered him to carry the things out; the Lodgings being open, he saw Mr. Germaine in Bed with the Dutchess of Norfolk, the Dutchess leap'd out of the Bed, and put on a Morning Gown, and Germaine hid himself in Bed; this was between five and six a Clock in the Evening, about a Fortnight before Bartholomew Day; he did not tell the Duke: he is sure it was Germaine; he saw him often, twice or thrice a day; the outward Door of the Lodgings was shut, but he opened it with a Key he had.

Rowland Owen examined a second time, saith he never had the Key of the Lodgings but once, that Mr. Reyner gave him the Key, when he went (as he told him) to the Blew Posts in the *Hay-Market*, to bespeak the Dutchess's Supper; he saith he saw not *Frances Knight* then in the Lodgings, nor any other Woman but the Dutchess of Norfolk; he saith he hath seen Reyner often open the outward Door of the Lodgings, when he hath been by, without calling *Frances Knight*: he saith that he himself opened the first Door with the Key, the second Door was not close shut, and the third Door was open: he saith two of the Doors are streight forward, and the third turns a little on the right Hand; he saith he was gone in at the third Door when the Dutchess leapt out of Bed.

Witnesses produced to the Credit of Rowland Owen.

Edward Silvester saith he hath known Rowland Owen three or four Years, and he hath trusted him in Busines, and he hath ever been very faithful; he hath trusted him in Stores to the King, and he might have imbezell'd, but ever found him honest; and he hath had three or four Thousand Pounds worth of Goods that he might have imbezell'd, and hath had opportunities of doing ill things, but never did: he hath trusted him with every thing he hath; he hath had more than 20*l.* imbezell'd by others, but he never imbezell'd a half-penny: He knows not well who recommended him to him; he hath an hundred Men now, and he knows not that three of them were recommended: He hath trusted him with Goods an hundred and an hundred times

times that he might have imbezell'd; and others that he hath so trusted have cozened him, and he hath lost 20*l.* in a Months time by them; He works at our work, and that better than twenty that he hath had, and he's no Porter; he saith he knows not Mr. *Negus*, nor was not acquainted with him till Yesterday.

John Jones saith he hath known *Rowland Owen* above three Years, and that he's a very honest Man, and that he ever found him faithful; that he lodged in his House, and that he might have done him Injuries if he would, and he hath been employed elsewhere, and he never heard ill of him; he believes he's a Man of a better Principle than to take a false Oath.

Thomas Cooke saith that he hath known *Rowland Owen* five years, and knows not but that he's an honest Man, and saith that he maintains his Family by his Labour; he is his Neighbour, and never heard him taxed with any Misdemeanor.

Witnesses Sworn on behalf of the Dutchess, for invalidating the Testimony of Rowland Owen. (viz.)

Frances Knight saith she knows *Rowland Owen*, as he was a Fellow-Servant in the Duke of *Norfolk's* House, she hath known him a Year, he was running Porter, to carry up Coals and Wood; he was not trusted with any Keys; she was trusted with the Keys to the Lodgings, and she always kept the Key to the outward Door to the Lodgings, and there was no other Key; and she never delivered it to any Body, but sometimes left it with the *Lady Peterborow*'s House-keeper; she never let this *Owen* have that Key or any other Key to the Lodgings, it was below her to do it; he never went into the Inner Rooms, no farther than the Steps to the Outward Room; he's a pitiful beggarly Fellow; he laid the Steward's Cloath, and had no other Lively-hood; she lived with my *Lady* six Years and upwards, and all the while had the Key to the outward Door; she saith you must first come into the Room called the Footmen's waiting Room, then into the Dining-Room, then into the Bed-Chamber; the Doors are sideways: she made the Dutchess's Bed constantly; she lock'd the Door, and kept the Key in her Pocket; she had the Key of the Rooms till the Countess of *Westmorland* had the Lodgings, which was till the Duke and Dutchess left them, which was ten or twelve days before *Bartholomewtide*, six Years ago.

Henry Reyner saith that he knew *Rowland Owen* Street-Porter; he saith that he (this Witness) could never get into the Lodgings, but when he had the Key from *Frances Knight*; he saith *Owen* never came into the Lodgings, but had a Key to a House where the empty Bottles were, which was without the Lodgings: and he himself could not get into the Lodgings but by *Frances Knight*; he never had the Key in his own Possession; he never saw *Owen* farther than the Passage-Room; he saith that the Doors are not opposite to one another; he saith *Frances Knight* never gave him the Key; he always found her there to open the Doors, or in the Room; he never had any Key that would open the Lodgings; *Owen* never told him that he caught the Dutchess in the manner as is said; he knows not of any Lively-hood he had, besides laying the Steward's Cloath:

Cloath: *Owen* had Wages from the Duke, and lodg'd at the Duke's House in St. James's, he sent Bottles, Pewter-Plates, Forks and Spoons, Bread, and Linnen sometimes by him, from the Duke's House to the Lodgings in White-hall: When he was not there to receive them himself, he gave him directions to deliver them to *Frances Knight*, or gave him the Key of the Cupboard. Being ask'd whether he hath ever gone by another Name than *Reyner*, he desired to be excused, and refused to answer; he refused also to answer whether he had known any Lady go by the Name of *Bateman*: afterwards he said he did know one to do so; he saith she went by the Name of the Dutches of *Norfolk*; he saith it was the Dutches of *Norfolk* that went by the Name of *Bateman*, and she went so he believes for a Year; it was at *Lambeth*, but he knows not at whose House there; he never saw *Germaine* there; it was a Year or half a Year since, he knows not certainly; the House is called by the Name of *Scriber's House*, a Dyer; he never saw Mr. *Germaine* at *Scriber's* with the Lady *Bateman*; he saith he himself went by the Name of *Goodman* when he lived with this Lady *Bateman*; he saith that he knows not that *Germaine* was ever at *Lambeth*, by that Name or any other; he saith he never paid any Rent for the House at *Lambeth*, nor knows that *Germaine* paid any for it; but he saith he was a Servant to the Dutches at *Lambeth*, but knows not what Office he was in, but she paid him his Wages.

Henry Reyner, examined to what *Rowland Owen* said at his second Examination, saith he never gave him the Key of the Lodgings, and saith he never had the Key of the Lodgings.

Observations upon the foregoing Evidence.

Ware in the first place to consider, and compare the Evidence on both sides. Secondly, To examine the Credit of the Witnesses. Thirdly, The reasonable Probability of the Matters Sworn, according to the common Course and Practice of the World.

Owen Swears, That being sent by *Henry Reyner*, the Duke's Butler, to carry the things out, and the Lodgings being open, he saw Mr. *Germaine* and the Dutches in Bed; and to countenance the Story, he says that two of the Doors are straight forward, giving to understand that the Doors being open, and one against another, a body may see the Bed out of the first Room into the third; that *Reyner* gave him the Key of the outward Door, and upon the unlocking of it he made this Discovery.

Frances Knight encounters this Evidence with a Deposition, that she kept the Key of the outward Door herself, and delivered it to no body, but now and then to my Lady *Peterborow*'s House-keeper; That *Owen* never went into any of the Inner Rooms, and that the Doors are sideways.

Henry Reyner saith also, that he himself could not get into the Lodgings, but by *Frances Knight*, that he never gave *Owen* the Key, nor ever had it in his Possession; that he never saw *Owen* beyond the Passage-Room, nay that *Frances Knight* never gave him the Key, but that he still went to her to open the Door, and that he never had any Key to the Lodgings; that whenever he

he sent *Owen* with Plates, Spoons, and the like, from the Duke's House to the Lodgings in *Whitehall*; he was either there himself to receive them, or directed *Owen* to deliver them to *Frances Knight*.

Now if these two Witnesses speak Truth, *Owen* was never in the inner Rooms at all; he never had the Key of the outward Door, and the Doors are not streight forward as *Owen* Swears they are, which is a Matter of Fact easily cleared.

As to the Credit of *Rowland Owen*: *Edward Sylvester*, *John Jones*, and *Edward Cook* are produced in his Favour. The first swears he never knew him steal or cozen, as if the case were Pilfery. The second that *Owen* might have done him wrong, and did not, and thence infers that he would not take a False Oath. The third, that he knows nothing to the contrary of his being an honest Man. So that here are three Surmises for the Reputation of *Owen*, which are just nothing to the purpose, on the one hand: and two point blank Proofs, upon Oath, against him on the other; and not one Sillable all this while to disparage the Testimony of either *Knight* or *Keymer*; though there are several pinching Passages in the Evidence, that, if they were false, might be detected by Hundreds of Witnesses. And for an Instance of *Keymer's* Tenderness of an Oath, he has own'd some things, upon the close of his Examination, to the seeming Prejudice of the Dutchess her self. This is meant of their going by borrowed Names; but as things stood at that time with many Persons of Honour, under her Grace's Circumstances, it was no Scandal to conceal either their Names or their Abodes. But as to the true Reason of the Dutchess's Retirement and living in a manner so *Incognito*. The Earl of *Peterborow* falling desperately sick in the *Tower*, her Grace came over upon it, from beyond the Seas, to be within distance in case the Sickness should have proved Mortal. The Dutchess had at that time nothing to live upon but an Exhibition from her Father, and one half of that was made over too for the Payment of her Debts; so that not being in condition to appear answerable to her Quality, she thought her self bound in Honour, Prudence and Justice to retrench her Expences, which she could not better do than by such a Retreat.

It is in the next place to be observed, how *Owen* interferes with himself; the Lodgings, he says, being open, he saw *Mr. Germaine* in Bed with the Dutchess of *Norfolk*, the Dutchess leap'd out of the Bed, &c. This must naturally be understood to have been upon the opening of the first Door; and to the end it should be taken so, he says that the two first Doors were streight forward, and that the third turns a little. Now if so, how could he see the Bed out of the first Room into the third? And then he forgets himself again, in saying that the second Door was not close shut, and the third open; so that he has now doubled the Difficulty: there was no seeing into the Bed-Chamber, both because the second Door was almost close, and because the third was sideways. It is to be noted also, that the Bed stands quite out of sight of the Bed-Chamber Door, which is sufficient of it self alone to overthrow *Owen's* Testimony. But upon second Thoughts, he takes himself tripping, and instead of mending the Matter makes it worse; it comes into his Head by this time, that there was no seeing them in Bed out of the first Room, and so thinks to help it out with a Flam at the wrong end of his Information, that indeed he was in at the third Door when the Dutchess leap'd out of her Bed. Now to take the Tale his own way, can any body imagine that *Owen* should unlock the outward Door, lay down his Lumber, pass these

two Rooms into the third, the Dutches and Mr. *Germaine* both awake too, and all this Noise not give them the Allarm.

To come now to the Probability of the thing, *Keymer* gave him the Key, he says, only for once it seems, for he never had it either before or since. Has not this the Face now of a Contrivance calculated for a particular turn? Is it not highly improbable again, that a pitiful drudging Fellow that earn'd his Bread, by doing Porters work for the Family, should have the Dutches's Bed-Chamber laid open to him? And so for the Morning-Gown, and *Germaine*'s hiding himself in the Bed, had they no other Cloaths or Garments lying by them? that *Owen* should have the luck to see just this and nothing else. But his Lesson was to swear *Nudus cum Nudâ*, and *Solus cum Solâ*, to bring the Proof up to the straitness of the Law, and that was the part he had to play. Or, to take the Case yet another way. If *Owen* had seen them out of the first Room, can any Body think he would have ventur'd after that into the Bed-Chamber? or, if he did not see them in the first Room, what had he to do in the other Room at all? But over and above all the rest, for an Amour of this Quality, to be carryed on thus in the Face of the Sun, the Doors and the Curtains open; let any Man ask his own Conscience if he does not look upon it as an Impoſure, without a President from the Creation to this Day.

Margaret Ellwood examined on the behalf of the Duke of Norfolk, against the Dutches.

Margaret *Ellwood* saith she had a Company to see the Lodgings at *Windſor*, in the First Year of King James's Reign, about three or four of the Clock in the Afternoon; a Woman told her that my Lady was not there, but she opening the Door saw my Lady upon the Stools in an ill posture, Mr. *Germaine*'s Britches were down; he pull'd them up, and laid his Hand on his Sword, saying, *God Dam' you for a Whore, how have you the impudence to come here?* My Lady bid him kick me down; he scattered some Concerns, that is Man's Nature on the Boards; she saw no Nakednes but her Knee, or a little above. Another time after, she found *Germaine*'s Handkerchief and Ruffles in my Lady's Bed; my Lady's Woman said there was *Germaine*'s Name upon them. Another time, she saw Mr. *Cornwal* let Mr. *Germaine* out of my Lady's Closet: She saw *Germaine*'s Legs within hers when she came the first time into the Room, and his Breeches were about his Heels. The first time was in *Bartholomew-Fair* time; Mrs. *Knifeton* told her it was *Germaine*'s Linnen.

Witnesses produced to the Credit of Margaret Ellwood.

Captain *Charles Ports* saith, he hath known *Margaret Ellwood* six or seven Years, and that she was Servant to the Duke of *Norfolk*, and that she behaved her self well and prudently there; her Husband was a Soldier in his Company, and was as he hath heard a Shoomaker.

John Faucet saith, he knew *Margaret Ellwood*, while she was the Duke of *Norfolk*'s Servant about two or three Years; he never heard any Scandal or Disgrace of the Woman, but that she carried her self civilly; he knows not whether she kept an Ale-House in *Windſor*.

Lawrence

Lawrence Purcell saith, he knows Margaret Ellwood; she lived in his House in Brook-Market, next Easter will be two Years: He knows nothing amiss of her; she took care for her Living; he never knew her keep ill Hours; she took a Room in his House, some of the Rent is behind, he thinks thirty two Shillings, her Husband and the Woman gave him a Bond for it.

Witnesses sworn on the behalf of the Dutches, for invalidating the Testimony of Margaret Ellwood.

Michael Haddon saith, he hath been acquainted with *Margaret Ellwood*, four, five, six, or seven Years. When he first knew her, her Husband was a Soldier in the Duke's Company, and she was, as he hath heard, an under House-keeper; he believes she was turned out of the Duke's Service; afterwards she sold Drink, in a House of his at *Windfor*, and went away in his Debt by Night, without paying him; she took her Goods with her; this was in 1689.

Joyce Heath saith, she knows *Margaret Ellwood*; she lived in a Cellar of hers, and in a back House of hers, but not at the same time, three quarters of a Year, in *Brook-Market*, about *Michaelmas* last; she paid the Landlady but eleven Shillings six Pence: Her Course of Life was not good; she was in an inferiour Condition, her Husband was a Cobler in a Stall, and she had five Children.

Mary Tervis saith, she hath but a slender Acquaintance with *Margaret Ellwood*; but the said *Ellwood* sent to borrow a Scarf of her the *Sunday* after *Christmas* last; and saith, that going the next day for her Scarf, she the said *Ellwood* desired it for a longer time, for it might be 5 l. in her way, for she was to be a Witness for the Duke of *Norfolk*, who was to be Divorced from his Dutches, and that the Duke sent his Charriot for her: I told her there could be no separation in Marriage, except Adultery could be proved; and that I could not think it reasonable to believe that so mean a Servant as she could be a Spectator to so ill an Action as that was; she said she thought she could do the Duke no Kindness in going, for she never saw other harm by the Dutches, than that she saw Gentlemen come to and fro to the House: but the Duke had sent for her, and she must go.

Mary Jones saith, she knows *Margaret Ellwood*, who she heard say, the Lady Dutches sent for her a little before *Christmas* last, and said, *Margaret*, I desire you to speak the Truth, I would not have you disoblige my Lord in the least. *Margaret Ellwood* said, she never knew no harm by her Grace. The Dutches demanded the Keys of her, and she gave them her; and the Dutches gave them to her the said *Ellwood*, again the next Morning; the Discourse was a few Days before *Christmas* last.

Ann Ross saith, she knows *Margaret Ellwood*, who came to her House and told her, about two Months since, that the Duke of *Norfolk* sent for her to Witness, for there would be a Divorce between the Duke and Dutches: and asking her what she could say, she answered she could say little, but that she knew no ill by the Dutches; but that she was a good generous Spirited Lady, and she never knew any ill Action by her in her Life; I bid her have a care what she went about, for that would do the Duke but little Kindness. The Dutches, she said, called for the Keys of her Lodgings, but gave her them back next Morning; she saith, that last Week she went to her to demand a Debt, and

and she promised to come and pay it her; she saith, she went to the Porter, at the Duke's, to ask for her; but the Porter said she was not within: but meeting with her Child there, she said she was within, and brought her, the Witnes, to her in the Duke's House; and she made her very welcome, and sent her Husband with her, the Witnes, to see her Childrens Lodging in the *Green-Mews*, near the Duke's House; she saith, *Ellwood's* Husband told her, upon asking how the Cause went, that his Wife was to have 30*l.* per *Annum* settled on her, and to go to *Wind/or* to live, and to have the shewing the Castle; she saith, that upon her going to see the Children, and commanding their Lodgings, that *Ellwood's* Maid, or Woman, told her they paid 4*s.* a Week for the Lodging; She saith the Children were well cloathed, with good Frocks and Top-knots, and they used to be ragged, and that her Husband used to allow her but six Pence a Day for her and her Children; she saith that *Margaret Ellwood* told her she had been with the Dutches; and that her Grace bid her do nothing to disoblige her Lord, but speak the Truth.

Mary Ross saith, she knows *Margaret Ellwood*, she saith, she heard *Ellwood's* Husband say, that the Duke of *Norfolk* had taken care of his Wife and Children, and settled thirty Pound per *Annum* on them, and her Habitation was to be at *Wind/or-Castle*, and said that my Lord Duke would be Divorced, for he was to have a great Fortune of twenty thousand Pounds a Year: This Discoule was the last Week, and her Father was present, and her Mother was just gone out.

Observations upon the foregoing Evidence.

Here's a foul and a suspicious Story in this Deposition of *Margaret Ellwood*, wherein she stands singly upon the Credit of her own Testimony, without any colour or corroborating Evidence to support it: Only Capt. *Charles Potts*, *John Faucet*, and *Lawrence Parnell*, are produced to speak to her personal Reputation. The first says, she behaved her self well and prudently in the Duke's House; the second and third, that they knew no Ill by her.

There were produced on the behalf of the Dutches, and to invalidate the Testimony of *Margaret Ellwood*, these six Witneses, *Michael Haddon*, *Joyce Heath*, *Mary Trevis*, *Mary Jones*, *Ann Ross* and *Mary Ross*. *Mary Trevis*, *Mary Jones*, and *Ann Ross*, do all depose, that about *Christmas* last, speaking of the Dutches, and *Mr. Germaine*; *Margaret Ellwood* told each of these Witneses respectively, that she never saw or knew any thing of Ill by the said Dutches; and yet *Ellwood's* Accusation bears date in the first Year of King *James*. *Mary Trevis* swears farther, that upon the next *Sunday* after *Christmas* last, *Ellwood* told her, upon borrowing a Scarf of her, that it might be 5*l.* in her way, for the Duke was to be Divorced from the Dutches, and he had sent his Chariot for her, and she was to be a Witnes. *Ann Ross* speaks also to the same effect, how *Ellwood* told her there would be a Divorce, and the Duke had sent for her to be a Witnes; and likewise saith, that *Ellwood's* Husband told her, that his Wife was to have 30*l.* per *Annum* settled upon her, and live at *Wind/or*, and have the shewing of the Castle. *Mary Ross* speaks to the same purpose also, with the Witnes above, as to what *Ellwood's* Husband said of *Wind/or*, the Settlement, and the Divorce; adding also, that the Duke was to have a great Fortune (according to the common rumour then about the Town); *Mary Ross's* Father was by, and heard all this: It was about a Week before the date Information that Discourse had passed.

Nay

Nay, the Dutches was so clear in the matter, that she sent for *Ellwood* a little before *Christmas* last, and bid her speak the Truth; as *Ellwood* her self own'd to *Mary Jones* and *Ann Ross*.

To come now to the Quality and Credit of *Margaret Ellwood*. *Haddon* says she was his Tenant to an Ale-house in *Windſor* in 1689, carry'd off her Goods by Night, and went away in his Debt.

Heath saith she liv'd in a Cellar, led an ill course of Life; her Husband was a Cobler in a Stall.

Ann Ross says that she had five Children, and that she had but Six Pence a Day Maintenance for her self and them.

This was her Condition till near *Christmas* last, when all on a sudden, as *Ann Ross* deposes, she was taken into the Duke's House, the Children new Cloath'd, and trickt up with good Frocks and Top-Knots (which were till then all in Rags) Lodgings provided for them at Four Shillings a Week, and a Maid to look to them, and no visible means of doing all this. But, in fine, the Change was not wrought by Miracle, and leans much toward the Discourse before mention'd, that *Ann* and *Mary Ross* had with *Ellwood*'s Husband.

The Question, at last, is briefly this; Whether is to be believ'd, a Woman under so many scandalous Circumstances, and one that Swears for her self too; or Six Witnesses against her of so unquestionable Probity, that not so much as one of them could be impeach'd by the other Party?

To pass now to the palpable unlikelyhood of the Story barely in it self; *Ellwood* was carrying Company, she says, to see the Lodgings at *Windſor*, and opening the Door, she saw and heard, as in her Deposition. How came it now, that none of this Company should be produc'd, or so much as nam'd to second *Ellwood*, for 'tis to be presum'd, they must needs hear and see what pass'd upon this Adventure, as much as she her self did; or if she had but nam'd the Woman, who, she says, told her my Lady was not there, it might have serv'd as a Collateral Inducement, for the giving of some sort of Credit to it. But in a Matter of this Importance, to have so many Witnesses within reach of being found out, and none to appear, looks very ill on their part, that were so much concern'd to produce them: And so for *Germaine*'s threatening her, and the Dutches bidding him kick her down; no People in their right Wits, but would have try'd to stop her Mouth, with fair Words and a good Bribe in such a Case as this, rather than provoke her by Menaces and ill Language, to run open Mouth to the Duke with the Story, in Revenge, when she had the Dutches Honour and Estate so absolutely at her Mercy.

As to the business of Mr. *Germaine*'s Handkerchief and Ruffles, and his being let out of the Closet, the Contrivance is all of the same piece with the rest; for why were not the persons nam'd in her Deposition, produc'd to prove the Particulars therein mention'd, as well as *Ellwood*'s? It is most certain, that the Prosecutors could easily have done it, and that it was properly their Business and Interest so to do; for what signifies *Ellwood*'s single Testimony, under her Circumstances, without Corroborating Proofs? She tells us a tale of Company to see the Lodgings, a Woman that told her so and so, and another Woman and a Gentleman that said, and did this and that, and yet not one Creature at last to second her Deposition, nor any pretence of an Exception to the Evidence on the other side.

Tho. Hudson Examined on the behalf of the Duke of Norfolk
against the Dutches.

Thomas Hudson saith, That the Duke of Norfolk being at Portsmouth, he was Butler at Windsor, when Germaine, and the Dutches, and Cornwall went to play; Germaine sent his Footman for clean Linen, which he brought the next Morning; Mrs. Gwin said to the Dutches, The Dog would have lain with me, but she would not lay the Dog where the Deer laid, for she knew my Lady Dutches would accept of him; after that he saw a Shirt and a Wascoat in the Closet, which my Ladies Woman and Ann Burton took away. My Lord being absent, we murmured amongst our selves, that my Lord was wrong'd; I told my Lord, whereupon my Master Cragg had me to my Lord Peterborough's Lodging, and threaten'd me, that he would prefer me to his Brother Richards, who turn'd me off in Germany. This was, he thinks, in December or September 1685: Mrs. Gwin spoke this in the Green Room, and he was in a Closet hard by, and the Door open, and so heard it.

Witnesses sworn on the behalf of the Dutches, for Invalidating the Testimony of Thomas Hudson.

William Purchase saith, That he knows Thomas Hudson, who, he says, was never Butler to the Duke of Norfolk, either at Windsor, or any other place; He, the Witness, was Under-Butler himself, Keymer was Butler in 1685, and the Witness was Under-Butler. He saith, Hudson waited on the Gentleman of the Horse, and the Steward; he was not the Duke's Servant, nor waited at the Table that he knows of; he was never suffer'd to come into the Room when the Duke or Dutches was at Play. He saith, he, the Witness, was not at Windsor at the time when the Duke of Norfolk was at Portsmouth, but he was sent to Drayton in Northamptonshire, and was then the Dukes Servant as Under-Butler; he knows not that Keymer was, he saith he is now Servant to the Lord Peterborough.

Col. Jacob Richards saith, That he knows Tho. Hudson, he was his Servant, he was recommended to him by Mr. Cragg, he was his Footman; he believes he was in his Service four Months, he parted with him because he found him a tricking Fellow; he told him his Brother Cragg was to be kill'd by one Curry and another Irishman: He, the Witness writ to his Brother Cragg, and he advis'd the Witness to part with him, for he did not think him fit to be trusted in his Travels; whereupon he paid him his Wages, and gave him Money to bear his Charges to England, and sent a Trunk by him. One Mr. Negus travell'd with the Witness and his Father, who then and now lives with the Duke of Norfolk, writ to us, that he did not think it fit for us to keep such a Servant, for he was a dangerous Fellow, or to that effect. Hudson never own'd any thing of the Adultery to the Witness, but positively declar'd to him he knew nothing of it: This was in January 1685. He saith, that Cragg writ him word, that Hudson must needs be a Tricking Knave. He negligently told the Witness this of the Adultery; Curiosity made him ask it of him, for he had liv'd with the Duke and Dutches, and it was natural for

for him, the Witness, to ask such a Question. He saith, he believes *Hudson* saw some of his Letters : He saith, there were printed Papers in the Trunk he sent, but nothing of any considerable value. He saith, *Hudson* never cheated him of any thing that he knows of ; he hath trusted him with a 100*l.* at a time : The Trunk was deliver'd in *England*, and he believes, he knew what was in it : He saith, that asking *Hudson* whether he knew any thing of the Adultery charg'd on the Dutches of *Norfolk* ? *Hudson* said, he knew nothing of it : He, the Witness, told him, that it was said, that it was he that had betray'd the Dutches ; he said it was a false Accusation, for he knew nothing of it.

Observations upon the foregoing Evidence.

Hudson swears himself the Duke's Butler at *Windsor*. *William Purchase*, swears that *Hudson* was never the Duke's Butler.

Hudson says, that they went to Play, and that he overheard *Mrs. Gwin* out of a Closet, saying as in the Evidence. *Mrs. Gwin* is a dead Witness, and *Hudson* but a Closet Witness, which is little better ; now *Purchase* says again, that *Hudson* was never suffered to come into the Room where the Duke or Dutches were at Play.

Hudson says likewise, that the Servants murmur'd amongst themselves, that my Lord was wrong'd, and that he told my Lord of it. Colonel *Jacob Richards* Deposes that he himself telling *Hudson* of a Talk, that he had betray'd the Dutches, and speaking of a Noise of the Adultery ; *Hudson* made Answer, that it was a false Accusation, and he knew nothing of it.

Now as to *Hudson's* Credit, he was Colonel *Richards*'s Footman, who turn'd him off as a Tricking Fellow, and not fit to be trusted. Mr. *Negus* the Duke's Servant, both then and now, was of the same Opinion too, and advised by Letter the putting of him away, as a dangerous Fellow.

This Story of Mr. *Germain's* sending his man for clean Linnen over Night, and the bringing it next Morning, has little in it, even supposing the Fact to be true ; First the Order was given bare fac'd, and Consequently no Mystery in it. Secondly, there was a Set Company at Play, and that was not an opportunity for a Love-Intreague. Thirdly, it is no new thing for People to Sit up all Night at Play, and change their Linnen next Morning, without any offence to Honesty, or good Manners, where they may have a Privacy so to do it. And if my Lady's Woman and *Ann Burton* took away the Shirt and Wastcoat, as he says they did, there's no great hurt in that neither ; tho' it's much to have three such Confidants to such a Secret, an under Foot-man Privy to the Intreague of *Germain's* Man going and comeing, and taking in the Women's Closet among the Linnen.

But still the only Proper Witnesses are kept behind the Curtain. *Ann Burton* indeed is produced, and we shall see what kind of Evidence she proves her self in the next Place.

Ann Burton examined on the behalf of the Duke of Norfolk a-
gainst the Dutches.

ANN Burton saith, she was Servant to the Duke and Dutches of *Norfolk*. When the Duke was gone to *Portsmouth*, she was at *Windsor*, when my Lady went to *London* with *Germain*. When my Lady came home, after Supper she was in great hast to go to Bed, when she was undrest, she said she would Lock us out, because she would not be disturb'd before Eleven a Clock the next Morning, tho' the King and Queen should come. *Hudson* told her *Germain* was still in the House, whereupon we laid Chairs on the back Stairs, that we might hear him if he came down, the Chairs were not removed the next Morning; when *Germain's* Man came with Linnen, he said his Master was there. My Lady ordered a Fire to be made in my Lord's Room, where when she was come, Mrs. *Nelly Gwyn* came in and asked her how she liked her Nights Rest? And being asked for *Germain*, she said she knew nothing of him. My Lady complaining of her Hair being out of order, *Nelly* answered it was a hot Night with her, enough to put her Hair out of Powder and Curl too. Quickly after *Cornwall* came in and asked for *Germain*, and my Lady saying she knew nothing of him, *Nelly Gwyn* said, I question not but he will come out by and by like a drownded Rat; with that while I was cleaning the Dining Room, Mrs. *Knifton* called me, and shewed me in a Closet *Germain's* Shirt and Waistcoat, and afterwards makeing my Lady's Bed, saw there were Two Prints where Two had laid. The Shirt and Waistcoat were sent by the Duke to the Lord *Petterborow's*, she saith she is a single Woman and was never Married, this was about *Bartholomewtide* Six Years since, she supposeth the Bed was Stained both by a Man and Woman.

Witnesses sworn on the behalf of the Dutches for the invalidating the
Testimony of Ann Burton.

ANN Burton, against her self; upon seeing several Witnesses come in, to prove her to be a Married Woman, (tho' she had sworn the contrary) was call'd to the Bar of the Lords, and there saith, she was not Married when she was at *Windsor*, since that she hath been Married. *Ann Burton* was her Maiden Name, her Husband's Name is *Benskin*.

Susan Wheat-Croft saith, that she knows *Ann Burton*, and that she Lodged in her House Sixteen Weeks, with her Husband *Robert Benskin*, and she said she should have a parcel of Money to be a Witness for the Duke of *Norfolk* against his Dutches, this was about *March* Two Years since, her Husband said he should have a Commission from the Duke of *Norfolk*, and he should have a great deal more from him, for his Wife is to be a material Witness against his Dutches. They did not pay her the Witness, when they went away, nor since, they owed her Seven Pounds Fifteen Shillings; she hath been seeking after them, and could not find them; she left a Trunk with Rags in it, and went away Privately, carrying away her Goods by Parcels.

Mary

Mary Sheriff saith, that she lives next Door to *Warwick House* in *Holbourn*, and hath kept *House* there near seven Years, and hath known *Ann Burton* two Years; she lived with my *Lord Clare*, while she was there, a Soldier courted her, they used to come every day for a Fortnight or three Weeks to her *House* to drink, she ow'd her about 3*l.* she hath told her several times since, that she was to be a Witness for the Duke of *Norfolk* against his Dutchess, and she was to have Money for speaking; she heard *Mrs. Tod* bid her always keep in a Story, and she would do well; she, the Witness, heard them talk of 30 or 40*l.* *Mrs. Burton* should get by being a Witness; she is not paid the 3*l.* nor knows not whether she shall be paid; but last Winter she found her in *Henrietta-street*, and she desired her, the Witness, not to take notice of her Name, nor what she said to her, for she, the Witness, should have her Money in a short time, when the Tryal was over; she told her the same a little before that, when she lived at *Major Wildman's*; she takes it, to be in this Winter was Twelve-Month; she thinks it was the Duke of *Norfolk's* Tryal; she, the Witness, keeps a *Coffee-House*, call'd *Joe's Coffee-House*.

William Purchase saith, that he knows *Ann Burton*, she declared to him about a Year and a half after the Dutchess was charged with lying with *Mr. Germaine*, that she knew nothing of it, and that the Dutchess was wrong'd as much as ever any Woman was, and that she hoped to see those punished that were the Cause of the Accusation: He saith, he went to see her as a Fellow-Servant, and he was not sent by any one, and going to drink together they fell into this Discourse: He hath talk'd of this Matter several Times (particularly to *Mr. Welborne*) since this Business was spoken of, having heard she was to be a Witness against the Dutchess.

Observations upon the foregoing Evidence.

ANN Burton has the Story over again of the *Shirt and Waistcoat*, and of *Mrs. Gwyn's* Discourse, to which enough is said already, and more needs not be said upon the Evidence of a Person so manifestly forsworn. In her first Oath, she swears her self a single Woman, and that she was never Married; but upon Witnesses appearing to prove the contrary, she was called to the Bar again, and own'd her self to be Married, and that her Husband's Name was *Benskin*.

This *Ann Burton* had been a Lodger sixteen Weeks to *Susan Wheatcroft*, as appears by *Wheatcroft's* Deposition; she conveyed her Goods privately out of the House by Parcels, and slipt away seven Pound fifteen Shillings in her Debt; she told *Wheatcroft* that she was to be a Witness against the Dutchess, and that she should have Money; her Husband saying also, that his Wife was to be a material Witness against the Dutchess, and he himself should have a Commission, and more than that too.

Mary Sheriff says, that pressing *Ann Burton* for three Pound that she ow'd her; her Answer was, that she was to be a Witness for the Duke against the Dutchess, and that in a short time she should have Money, and then she would pay her.

William Purchase swears, that about a Year and half after the Report concerning the Dutchess and *Mr. Germaine*, *Ann Burton* told him, the Dutchess was wrong'd, and she hop'd to see her Accusers punished: and that he himself hath often spoke of this Passage to several, and particularly to *Mr. Welborne*. Take notice

notice, that these Depositions for the Dutches, as well as the former, have passed without any contradiction: That *Germaine's* Man is neither produced nor named; the Linnen (if any) brought as openly as it was sent for. No Mrs. *Knifton* appears, and the whole Deposition rests upon the Credit of a forsworn Woman.

Simon Varelf examined on the behalf of the Duke of Norfolk, and against the Dutches.

Simon Varelf saith, that he was at *Windsor*, to draw the Dutches of *Norfolk's* Picture, about six Years since, and had the Duke's Closet to put the Pictures in; when he had done and had been at home two or three Days, when *Germaine* came to him much concern'd, and said, you can do the Dutches an extraordinary Kindness, and will oblige the Lord and Lady *Peterborow* in the highest degree; then he shewed me a Letter of the Dutches to me, and read it to me, before that he told me there was a Shirt and Waistcoat, and they are known to be his; he said, I desire you to save the Dutches Honour, I desire that you will be so much a Gentleman as to own them to be yours, and that you left them there; I answered, I was much concern'd there should be such a Trouble, but I desired to be excused, I could not do it without Prejudice: He told me the Lord and Lady *Peterborow* had discoursed the Duke of *Norfolk* upon it, and if it were but my Linnen, their Discourse had wrought so much upon him, that if there came any Evidence to assist him, he would leave of the Pursuit; I refused still, he offered me a Purse of Gold, and told me I should make my Fortune by it; but I still refusing, Mr. *Germaine* went away very much discontented; my Wife being in the next Room, overheard the Discourse between *Germaine* and me, and told it, and spoke of it, or else I had not been here now.

John Rothmell Sworn a Witness on the behalf of the Dutches of Norfolk, for Invalidating the Testimony of Simon Varelf.

John Rothmell saith, that he lives in *Crown-Court* in *Covent-Garden*, and is a *J. Taylor*: He saith, he knows *Simon Varelf*, and that he, the Witness, Marry'd his half Sister; he saith, that about a quarter of a Year after the business of the Dutches happen'd at *Windsor*, he was at *Varelf's* House about Eleven of the Clock in the Night, and *Varelf* lock'd the Door, and told him, he had disparag'd him by Marrying his Sister, and said, he would be his Death, and drew his Sword, and Commanded him to strip, that he might slash him at his pleasure; and the said Witness did strip for fear of his Life, knowing his Frenzy; and he struck the Witness above a dozen times with his Sword, and threaten'd still to have his Life, if he, the Witness did not fetch his Wife down that Night, which was about Twelve a Clock, and which was about Six Weeks after she lay in; and he was to bring her to be Whipt, and to bring Six Rods with him; upon his, the Witnesses Promise to do this, he let him go, and he hath not seen him since, but in the Street. He had half a Year before that been Distracted for Six Weeks, and he, the Witness, fetch'd *Dr. Tenison* to him once, and the Doctor came several times afterwards to him. One Night in that Sickness, he got from the Woman that watch'd him, and run about two hours in his Shirt and Wascoat, in a frosty Night, and cut his Feet, and was brought home by the Watch; he saith,

faith, his, the Witness's Wife, was to have been here this day, as a Witness, and was here, but having not an hour to reckon, and being ill, is gone home with her Midwife: He saith, he never durst go near *Varell* since he abus'd him. He saith, that Mrs. *Varell*, after she came from *Windsor*, said, that the Dutches had ill People about her, and that she believ'd her to be much wrong'd, and said, she could clear her about the Scandal of the Linnen that was found; for whether it was or was not Mr. *Varell*'s Linnen, she could do it; and said, supposing I had brought my Husband's Linnen down to be wash'd, and the Landress fetching of it, she might take it up and leave some of it behind.

Observations upon the foregoing Evidence.

THERE needs no more to the overthrowing of *Varell*'s Evidence, whatever it is, than the Testimony of *John Rothmell*, to prove him *Non Compos*; witness his Outrage upon *Rothmell*, the fantastical freak of sending at Midnight for six Rods to whip his Sister-in-law; and another fit, for a matter of six Weeks, when *Dr. Tenison* made him several Visits to compose him, his Frenzy being so violent upon him, that he broke loose from his Keepers in a Frosty Night, and ran up and down the Streets in his Shirt, till he was taken up by the Watch. This is the sum of *Rothmell*'s Testimony, and not one word oppos'd either to the Credit of the Witness, or the truth of the Depositions. But it may not be amiss, after all this, yet to speak a few words to the likelyhood of what *Varell* has here depos'd.

Mr. *Germaine* came to him, he says, with a Letter from the Dutches, which he read to him, and in the name of the Lord and Lady *Peterborough*, desir'd him to say, the Shirt and Wascoat were his; but not one word all this while of the Contents of the Dutches's Letter. He says again, that the Shirt and Wascoat were known to be his; now if they were known to be Mr. *Germaine*'s, what good could *Varell* do by taking the matter upon himself; when he saw fair words would not do, there was a Purse of Gold offer'd him, and that would not work neither. The Dutches and Mr. *Germaine* were wonderfully alter'd, sure, in this Case, from what they were in the business of *Owen* and *Ellwood*; there was no Purse of Gold or Dutches's Letter to smother the matter, but on the contrary, *Ellwood* was threaten'd, provok'd, and defy'd, instead of cajoling her. And what was all this for at last, but only to remove a Jealousie, and most ridiculously, at the same time, to condemn themselves by a Confession out of their own Mouths, and improve the Suspicion into a Certainty: Can any Body imagine that they would not have done more to have suppress *Owen*'s and *Ellwood*'s Evidence, than *Ann Burton*'s, or *Simon Varell*'s, who swears farther, that his Wife heard all this Discourse betwixt *Germaine* and himself in the next Room, and told of it. Why was she not produced then, or the Persons to whom she told it? But *Rothmell* swears, that Mrs. *Varell* said, the Dutches had ill People about her, and was much wrong'd, and that she her self could clear her about the scandal of the Linnen; so that 'tis plain, Mrs. *Varell* was not an Evidence for the present Turn.

Thomas Foster Examined on the behalf of the Duke of Norfolk,
against the Dutches.

Thomas Foster saith, that he was Coach-man to Mr. Germaine, and carried the Dutches of Norfolk often, about two Years since in his Coach, and brought her Home, and the Foot-men have had four half Crowns given them; and Marting a Dutch-man, his helper, called it *Bush-Money*; it was by Night, against a Light, that he saw her Face in the Coach; it was about Seven or Eight of the Clock at Night about this time a Year; he hath seen her Face once in the day time, she looking out of a Sash-Window, two stories high, in Mr. Germaine's House in Park-Street; he knows her Face well enough; he hath seen her before, and since she was Marryed.

Witnesses Sworn on the behalf of the Dutches of Norfolk, for Invalidating the Testimony of Thomas Foster.

John Hall saith, that he Lives at the *Coffin* in *Tuttle-street*, and is a Joiner; he saith, he hath known Thomas Foster two Years; and that about three Weeks since, they being Drinking together, and talking, concerning the Duke and Dutches of Norfolk; he said, Mr. Germaine had done ill things by him, in turning him off in *Ireland*, and in turning him off here, and he was resolv'd to be reveng'd of him.

Hosea Grimsley saith, he Lives with Mr. Germaine, and that he hath known Thomas Foster above a Year and three Months, in Mr. Germaine's Service; he heard him say, in the last Week of December last, in Mr. Cook's House, about three days before he was turn'd away; that he thought it no more Sin to Murther his Master, than it was to kill a Louse; he saith, he hath lived with Mr. Germaine about a Year and half; and that he never saw the Dutches of Norfolk with him; and that he hath ever since he came to him, lived with him in the place where he now lives; he saith, he never saw Mr. Germaine with a Woman, that was called the *Lady Bateman*, nor knows any such Name or Person.

Observations upon the foregoing Evidence.

There is not one word in Foster's Evidence, true or false, that's worth the hearing, only it is levelled upon the main, at the Dutches and Mr. Germaine; and John Hall gives the Reason of it; for this same Foster, he says, was Mr. Germaine's Coach-man, who he said, would turn him off; and he would be reveng'd of him. Hosea Grimsley Testifies also, that some three days before Foster was turn'd away, he said, he thought it no more Sin to Kill his Master, than to Kill a Louse. So, that the Evidence he gives, was grounded on the Malice he bore his Master, for turning him off.

Thomas Lloyd Examined on the behalf of the Duke of Norfolk,
against the Dutches.

Thomas Lloyd saith, he knows one that went by the Name of the *Lady Bateman*, at her House at *Fox-Hall*; one Germaine, a Wine-Merchant, took the House, she came thither about Midsummer, 1689. She was off and on there

there till last Michaelmas. He hath seen the Person that went by the Name of the Lady *Bateman*; and it is the Dutchess of *Norfolk*. *Goodman* was her chief Man, and his real name is *Keymer*. Her Brother, as was pretended, which he hath heard was Mr. *Germaine*, was the chief Man that came there, sometimes he came once or twice a Week, sometimes other; he's certain, as the Servants said, it was Captain *Germaine* that came there, every body said it was he: He knows him not by his Name, but by Hear-say; if he could see him now he could tell whether it was he; he hath not seen him since the Lady went away; he believes *Germaine* was there every Month in both the last Summers, he cannot say that *Goodman* was ever there when *Germaine* was there; he saw him several times there in *May, June, July, and August, 1691*. *Germaine's* own Hair was then pretty long: He cannot positively swear he was Captain *Germaine*; he supposes if he saw him now he could know him.

Witnesses Sworn on behalf of the Dutchess of Norfolk, for invalidating the Testimony of Thomas Lloyd.

Alexander Herman saith, that he served Mr. *Germaine*; he hath left his Service a Year and a half, about eight Weeks after he came from *Ireland* with the King; he served him a Year and half: Mr. *Germaine* was in *Ireland* with the King, in the Summer, in the Year 1690. He went to *Ireland* two Days before the King that Summer, he continued there four Months: he believes he went the last of *May* or the first of *June*; he came back with the King. He the Witness served him all that while in *Ireland*, and saw him every Hour and every Day, and never stirr'd from him; he came from *Ireland* in the same Ship with the Lord *Villers*, the Earl of *Manchester*, and Mr. *Felton*; and he went to *Ireland* in the *Monmouth* Yatch, with the Envoys of *Holland* and *Brazenburgh*, and the Marquis *Mompavillon*: He saith Mr. *Germaine* was at *Brussels* in *May* last, he saw him there, and spoke with him there; he saw the Lord *Villers* and the Lord *Lumley* there with him; he lodg'd in the same Tavern there with him, for four Days, and saw him not after: He the Witness, coming then for *England*, left him there. He never knew him wear his own Hair, his own Hair is dark brown: He never knew him appear abroad without a Wigg; his Hair is about half a Finger long; he wore a fair Perriwig: He saith he, the Witness, was quarter'd in a little Tent behind him in *Ireland*; he could not stir but he heard him; he saith that four Weeks after he saw him in *Brussels*, he saw him walking in *St. James's Park*.

Anthony Morée saith, he was Barber to Mr. *Germaine*; the first time he shaved him was about five or six Years since; his own Hair is brown; he shaved his Head very often; he shaved him before he went to *Holland*, and since he came home; he never saw his Hair long enough to cover his Ears; nor saw he him ever wear his own Hair, but a Perriwig: He shaved him for a Year and half before and since he went for *Ireland*: He shaved him always at his own House near the Park: He or his Man shaved him ever since he came from *Holland* to this Day: He or his Man shaved him the Night before the King went for *Holland*: He saith that Mr. *Germaine*, when he went away, said it would be a Month or two before he should come back, but he knows not how long it was: This was at his House next door to the Cock-pit; he shaved him generally since the King came into *England*: He saith the Campaign was almost done when he first shaved him, after he came from *Flanders*.

Observations upon the foregoing Evidence.

Lloyd's Deposition is nothing at all to the purpose, or if it were never so pertinent, the Falsities in it are sufficient to spoil it; for in Truth his Evidence, as to Mr. Germaine's being at Fox-Hall, is only grounded upon Hear-say and Report: And yet he ventures to swear him to be there every Month in both the last Summers; and particularly, that he was several times there in May, June, July, and August, 1691. Whereas Alexander Herman swears, that Mr. Germaine went to Ireland in the Summer 1690, on the last of May, or the first of June; where he stay'd about four Months, and that himself saw and serv'd him there; and says farther, that he was at Brussels in May last. Anthony Moré says also, being Barber to Mr. Germaine, that he went beyond Seas, and the Campaign was almost over when he first shaved him after he came back from Flanders, which is a flat Contradiction to Lloyd's Evidence.

The next Witnesses produced by the Duke of Norfolk, were Peter Scriber, Andrew Anderson, Robert Hemming, John Reynolds and Margaret Foster.

Peter Scriber saith, that he let an House, at Fox-Hall, to Mr. Daniel Germaine, Mid-Summer was two Years, (viz.) 1689, at Twenty four Pound per Annum. He told him that two Ladies that were to come from Holland were to live there; one was Mrs. Bryan, the other the Lady Bateman; they went by the Name of Daniel Germaine's and Captain Germaine's Sisters. The Ladies came to the House about ten Days after it was Let; one Goodman, that attended them, was off and on there all the Time that the Lady Bateman lived there, which was off and on till September last: This Goodman is the same Man that was heard here the other day, as Henry Keymer he remembers not, nor can be positive that he hath seen Captain Germaine there at any time; he cannot say he knows him; he hath not seen him seven or eight Years. He saith, he, the Witness, is generally absent in the Day-time; Goodman he saith came off and on to the Lady Bateman's, from the time she came thither till the time she went away.

Andrew Anderson saith, he knew one that went by the Name of the Lady Bateman a Year and half ago, at Fox-Hall, from last Spring was Twelve-months till near last Michaelmas, but hath not seen her since; he knew one that went by the Name of Goodman that used the House; and that Goodman is Keymer; He knew a Gentleman that lived by the Cock-Pit, that went by the Name of my Lady's Brother, which he used to take into his Boat at Channel-Row, and carry to Mr. Scriber's House at Fox-Hall. He carried him several times backwards and forwards; since Mid-Summer he hath carried him twice; he used to carry him to the back Stairs of Scriber's House: The same day he fetch'd him, in the Forenoon, from the Parliament-Stairs, or Channel-Row, he carried him back in the Afternoon; he had a light Wigg. He, the Witness, hath carried Wood from Scriber's House, from the Person that went by the Name of the Lady Bateman, to the House by the Cock-Pit; one Nicola used to receive it into Carts, at the Wool-Stable: This Nicola was, he supposes, Servant to the Gentleman that lives in that House on the other side the Cock-Pit; he hath been at the Door but never in the House;

he saith he bought the Wood of the Bargemen, by the Person's Order that was call'd the Lady *Bateman*.

Robert Hemming saith, he knew one that liv'd near the Dye-house in *Fox-ball*, that went by the Name of Lady *Bateman*; he saith, he was Gardner to the Houle near two Years since, after *Midsummer* next will be three Years; he knows not the Lady otherwise than by the name of Lady *Bateman*; he hath seen Gentlemen come there, but he knows not their Names; he knew her Servant *Goodman*; Mr. *Knolles*, that waited on the Lady, and was chief Gardner, paid him his Wages; he knew *Goodman* by no other Name.

John Reynolds saith, that he saw the Lady that went by the Name of Madam *Bateman* several times walking in her Garden, living conceal'd; that is, she lived privately, and had but little Conversation amongst her Neighbours. The sixth of *November* last, being invited to dine at a Friends at *Westminster*, he met between the Lord *Peterborough*'s and the Ferry, a Lady whom he believ'd was the same Lady *Bateman*; and because he would not be under a mistake, he enquir'd of one that follow'd her, and he told him, it was the Dutches of *Norfolk*; his businels is at the next Door to *Scriber's* House; he hath seen a Gentleman walk with the Lady in the Garden, that his, the Witnesses Servants have told him, was Mr. *Germaine*, he hath known the Lady live in that place above two Years and half. He knew *Goodman*, that liv'd there, who now goes by the Name of *Keymer*.

Margaret Foster saith, she knows one *Nicola*, he's Mr. *Germaine*'s Gentleman, that lives next House to the *Cock-pit*. Mr. *Germaine* hath liv'd there two Years; her Husband was his Coach-man; it's the *Royal Cock-pit* in *Park-street*, or *Cartret-street*; Mr. *Germaine* sent for her on *Sunday* Fortnight, to enquire for her Husband, who, he told her, was a Witness against him; and his Brother (who was present) told her, that his Brother did not send for her to bribe her, but to tell her Husband he should not forswear himself; for there was a Pillory.

Observations upon the Depositions of Peter Scriber, Andrew Anderson, Robert Hemming, John Reynolds, and Margaret Foster.

THe Testimonies are all Forreign to the Charge against the Dutches; her Graces being at *Fox-ball*, and the going under borrow'd Names, is all acknowledg'd, and the Reasons already given; besides the mistakes in them are so few and trivial, that it is not worth the while to detect them.

Jane Wadsworth Examined on the behalf of the Duke of Norfolk against the Dutches.

Jane *Wadsworth* saith, that she sold Drink, and going into Mr. *Germaine*'s House, a little before the King went into *Ireland*, for a Pint Pot, she saw a Dutch Woman, who bid her go up Stairs for it; and going up for it, she met the Dutches of *Norfolk* in a Night-Gown, one side lapt over the other side, with *Flanders-lac'd* Night-Cloaths on her Head, without a Hood on: About two Hours after, *Herman*, Footman to *Germaine*, came into her House, and she saying to him, you have got the Dutches of *Norfolk* at your House, he said, no Dutches of *Norfolk*: I said it was she, for I had seen her some Hundreds of times: He said, it was his Master's Lady, and his Master's Dutches, no Dutches of *Norfolk*; why should not my Master have a Dutches as well as

the Duke of *Norfolk*? She hath known Mr. *Germaine* three Years next *Mid-summer*, having liv'd there so long. *Herman* enquiring where I saw her, I said, upon the Stairs; he told me, I should not have gone up the Stairs; I told him, the *Dutch-Woman* bid me go up: It was about Eleven a Clock in the Day time that she saw her: He bid me say no more of it, for if his Master knew it, he would kill the *Dutch-Woman*. She saw *Welsh Frank*, about two Months since, deliver a Letter to Mr. *Germaine*, and she hath seen her go to the House often; she hath known the *Duchess* ever since, and before she was married.

Frances Knight (examin'd before for the *Duchess*) being called in, the Witness saith, this is the Woman that was call'd *Welsh Frank*, whom she hath often seen at Mr. *Germaine's*; she saw her, about the time the King came home from *Flanders*, give another Letter to Mr. *Nicola*, Mr. *Germaine's* Gentleman.

Witnesses produced by the Duke of Norfolk, to speak to the Credit of Jane Wadsworth.

John Prince saith, he hath known *Jane Wadsworth* Twelve Years, to be a good honest poor Woman, and of good Reputation to the best of his Knowledge; and that she takes care to maintain her Family; he believes her to be an honest Woman, and that she would not take a false Oath; he knew her at the *Horse-Ferry*, and in *Cartret-Street*.

Emery Arguies saith, that he hath known *Jane Wadsworth*, 13 or 14 years, he never knew her but of as good Reputation as any in the Parish; she is Poor, but he believes, she would not take a false Oath.

Robert Elmes saith, that he hath known *Jane Wadsworth*, 12 or 13, years, he thinks her a very honest Woman, he never heard but she was an honest Poor Woman, that endeavoured to live and maintain her Family, she is of good Reputation.

Charles Read saith, he hath known *Jane Wadsworth*, 12 years, and something better, he never knew her do an ill thing, but she was always a careful industrious Woman; he hath known her Married all that time, and she never was a Servant in that time.

Henry Dagley Senior, saith, that he hath known *Jane Wadsworth*, 16 or 17 years, she was always a very Civil Woman, and he never heard other by her.

Witnesses Sworn on the behalf of the Duches of Norfolk, to the Invalidating the Testimony of Jane Wadsworth.

Grace Cooke saith, that she knows *Jane Wadsworth*, she hath liv'd near her Four Years; she came into the *Witnesses* House with a Paper in her Hand, and ask'd her, who left it, saying, she knew nothing of it; she said, that she had said, that she had seen the *Duchess of Norfolk* in Mr. *Germaine's* House, but she had not seen her a great while, and now that she had seen her, she was satisfied, that it was not her; and she wish'd, that she might burn in the Fire, and never go home to her Children, if she would take her Oath of it. The Paper was to warn her to this House; it was the first Night the Papers came out, that she said this, *Hosea Grimsley*, *John Hall*, and *Margaret Coudy* were present when she said this; she saith, she lives next Door but one to *Jane Wadsworth*.

John

John Hall saith, that he hath known *Jane Wadsworth* above a Year; about a Fort-night since she came into *Mrs. Cooke's*, with an Order in her Hand, but knew not who left it; and said, she could say nothing to it, *Mr. Cooke* saying again, you must say something to it, else you had not had this Order from the House; then she said, she had been at the Duke of *Norfolk's*, and had told the Duke, that she had chanc'd to go into Captain *Germaine's* House for a Pint Pot, and she chanc'd to see the Dutchess of *Norfolk*; but she said she might be mistaken, for she had not seen her in Seven Years before, but she had seen her once or twice since; she came out of *France*, and that was none of the Dutchess of *Norfolk* which she saw on Captain *Germaine's* Stairs; whereupon *Hosea Grimsley* asking her, if she were sure it was not she, she said, she was sure it was not; she wishing that she might burn, and never go home to her Children, if she would swear it, for she could not swear it: *Hosea Grimsley, Grace Cooke, and two other Women*, were present in *Grace Cooke's* House, when this Discourse happen'd, which was the very Night the Order came out: He saith, he wrought in Mr. *Germaine's* House, he saw twice or thrice Ladies there in Masks; one of the Ladies in the Mask, gave Order to take down a Petition; she was reported to be Captain *Germaine's* Sister.

Margaret Condy saith, she knows *Jane Wadsworth*, who came into *Mrs. Cooke's* the first time she was Suppœna'd, and ask'd, who left the Paper in her Hand for her; she said, she went to Mr. *Germaine's* for a Pot, and she thought she saw the Dutchess of *Norfolk* there; but she saw her since her coming from *France*, and was satisfy'd it was not her, and wish'd she might never see her Children, and burn, if ever she saw her there.

Alexander Herman saith, that he knows *Jane Wadsworth* well, he never had any Discourse with her concerning the Dutchess of *Norfolk's* being in Mr. *Germaine's* House; he saith, he hath drank often at *Wadsworth's* House, but he never had any Discourse with her concerning the Dutchess of *Norfolk*, nor never saw this Woman in his Masters House in all his life: He waited on his Master at Table, and in his Chamber, all the time of his Service, which was a Year and half; he never saw a Lady in a Mask in his Master's House.

Mary Pennington saith, that she knows *Jane Wadsworth*, she was her Servant, but not long, for she was not honest. She, the Witness, being gone out, at her return, she met her going away with her, the Witness's Linnen and her Husbands bundled up; this is about Eleven Years since.

Frances Knight saith, that she knows not *Jane Wadsworth*, nor never discours'd with her, nor never saw her at Mr. *Germaine's* House, nor did the Witness ever carry any Letters thither.

Witnesses examined on the behalf of the Duke of Norfolk, against the Credit of John Hall.

Henry *Dagley*, Jun. saith, that he knows *John Hall*, he was a Workman at Mr. *Germaine's*, when he, the Witness, wrought there; and *Hall* hath often said to him, that he believed it was the Dutchess of *Norfolk* that was there in the Mask, and that gave him Directions in his Work there; this was at Mr. *Germaine's* House in Park-street: He could not affirm it to be true, because she was Mask'd, but really believed it.

John Hoskins saith, that *John Hall* was employed by Mr. *Germaine*, and a Lady that was Mask'd; the Lady was the first that ever shewed him his

work, what he was to do: And the first work he did was to take down a Petition, we talking amongst our selves, that it was the Dutches of *Norfolk*; *John Hall* has said that that Lady was the Dutches of *Norfolk*, not that he could say so of his own Knowledg, but that he hath been often told it was so; He saith that *Hall* told him, the Day he, the said *Hall*, was examined here, that if he had been ask'd more he could have said more.

Observations upon the foregoing Evidence.

Jane Wadsworth swears, she saw the Dutches at Mr. *Germaine's*, and what Discourse she had afterward with *Herman*, Mr. *Germaine's* Footman, and that a Dutch-Woman sent her up Stairs for a Pint Pot, by which Accident she saw the Dutches; she says also, that she saw *Welsh Frank* deliver a Letter to Mr. *Germaine*; *Frances Knight* being produc'd, *Wadsworth* swears that's the Woman that was call'd *Welsh Frank*, and that she saw her give another Letter once to Mr. *Nichola*, Mr. *Germaine's* Gentleman; there are also four Witnesses produc'd for her Credit, that say they know no Ill by her.

But then *Grace Cook* on the other hand swears, that *Jane Wadsworth* told her, that she thought she had seen the Dutches at Mr. *Germaine's*, but was now satisfied that it was not she, and Cursed her self, and her Children, if she would take her Oath that it was the Dutches: This was upon her receiving a *Subpæna*, to appear and give Evidence; *Hosea Grimsley*, *John Hall* and *Margaret Condé* were present at this Discourse.

John Hall swears, that she said that she saw the Dutches of *Norfolk* at Captain *Germaine's*, but upon a farther sight of her, she finds she was mistaken.

Hosea Grimsley swears to the Discourse, the very words of the Curse, and the Persons that Were in Company; all agreeing with the Deposition of *Grace Cook*: *Margaret Condé* swears to the very same Particulars.

Alexander Herman deposes, that he never saw *Wadsworth* in his Master's House, nor ever had any Discourse with her concerning the Dutches; and he being a Person turn'd away in Disgrace from his Master, would have made no Scruple to publish any Secret of that kind, at least to swear the Truth, when upon his Oath.

Mary Pennington says, that *Jane Wadsworth* was her Servant a while, but was not honest, and that she had filched some of hers and her Husband's Linen, and was going away with it.

Frances Knight denies the Knowledg of *Wadsworth*, or any Discourse with her; she never saw her at Mr. *Germaine's*, nor ever carried any Letters thither.

But here are two Witnesses brought in now to Arraign the Credit of *John Hall*, which is as much as to say that they had no Exceptions to any of the rest, or which is all one, to the Truth of the Matter; for *John Hall's* Evidence is by them confirm'd over and over: And what is it that these two Witnesses have to say at last? *Henry Dagley* says, that he believed it was the Dutches he saw at Mr. *Germaine's*, but could not affirm it. And *John Hopkins* says, that they said it was the Dutches, but he could not speak it of his own Knowledg, which amounts to no more than a bare Hear-say.

Witnesses Sworn on the behalf of the Dutchess of Norfolk, Intimating a seeming Reconciliation.

Mrs. Judith Stourton saith, that she was Servant to the Dutchess of Norfolk, when the Report was of the Dutchess and Mr. Germaine, which was about a week before the Duke and Dutchess went to France; she was askt by the Lord Peterborow in the Presence of the Duke of Norfolk, in the Duke's House in St. Jame's Square (where they shut the door) as she would Answer it to the Face of Almighty God, if she did know whether his Daughter was an Adultress: Her Answer was, that as she hop'd to see God in Heaven, the Dutchess was as Virtuous as any Woman alive, for ought she knew; she saith, that what she then said, is true; and if she should pretend to say more, she should wrong her: She saith, that no one was present, besides the Lord Peterborow and the Duke, when they Examined her; and that she saw no Shirt or Waist-coat at that time; and that she doth not remember, she said to Mrs. Webb any thing concerning the Dutchess and Mr. Germaine, and thinks she never spoke with Mrs. Webb; and she was not at Windsor when the Duke was at Poresmouth; she saith, there was a Report of Scandals which she was sorry for.

Edith Sawbridge and Webb, produced on the behalf of the Duke of Norfolk, to discredit the Testimony of Mrs. Stourton.

Edit Sawbridge saith, that the Tuesday following, this unhappy Discourse concerning the Dutchess of Norfolk; Mrs. Stourton came into her Chamber, and she telling her what had happen'd at Windsor, Mrs. Stourton reply'd, this is nothing but what she expected before now; the Witness reply'd, that if she the Witness had been as near the Dutchess, as the said Mrs. Stourton, she would have prevented all this, to which Mrs. Stourton answered, would you have had me whipt at the Carts-arre. The Discourse we had was, that Mrs. Knifton told her, when I came from London on Friday Night, that she told me she was glad I was come, for she expected her Throat to be cut every Night, since my Lord Duke went to Poresmouth; I askt her the Reason of her fear, she answer'd, Germaine had lay'd with my Lady Dutchess, ever since my Lord Duke went to Poresmouth; that when he came Home he would hear of it, and he would kick her for a Bawd; and if she should tell my Lord, Germaine would cut her Throat; I bid her have a care what she said, for these were dangerous words; how can you prove this? she said, it was very true; the Witness asking her (Mrs. Knifton) how she knew this; she said, Germaine, instead of going home, went into the Closet: The Witness cannot say, that she said all this to Mrs. Stourton, but the greatest part she did say, Mrs. Stourton said, this was nothing but what she expected before: This was the Tuesday after my Lord Duke came from Poresmouth, this was about Bartholomew-tide, in the first Year of King Jame's Reign.

Mrs. Stourton called in, to Confront this Edith Sawbridge, and Examined.

Mrs. Judith Stourton saith, that she saw Mrs. Sawbridge once in the Duke's House in St. Jame's Square, and they talkt of the Slander of Germaine and the Dutchess of Norfolk; she saith, she the Witness, never heard

Mrs.

Mrs. Sawbridge say, that Mrs. Knifton, should say, that Germaine lay'd with the Dutchess every Night at Windsor; she denies, that she said to Mrs. Sawbridge, that she expected to hear that before now; she never said to Mrs. Sawbridge, would you have had me whipt at the Carts-arre, she saith, she remembers not, that Mrs. Sawbridge told her, that Mrs. Knifton said, that she was afraid that her Throat would have been cut, when the Duke was at Portsmouth; she remembers not, that she askt Mrs. Sawbridge the Reason of Mrs. Knifton's fear, or that she told her any thing of Mrs. Knifton, saying, that Mr. Germaine had lay'd with my Lady every Night at Windsor, she saw Mrs. Sawbridge, and discoursed with her, but she cannot say what Discourse she had with her.

Mrs. Eliz. Camell saith, that she went with the Duke and Dutchess of Norfolk into France; they went together very Lovingly, and parted so, she thinks the Duke staid with her about a fortnight; the Duke's Eye was ill, and my Lady went often to him; and when she did so, we retired; my Lady drest his Eye, they eat and drank together every day, they did not Lodge together that she knews; my Lord, told her at parting at the Grate in the Monastery, that he would fetch her away suddenly, and they parted kindly, Mrs. Lawson was in the Monastery with the Dutchess; the Witnes continued there, about severiten Months; my Lord, exprest a great deal of Kindness to my Lady in going, and while he was there; there were Tears on both sides at parting; when my Lord and Lady were together in the House, call'd *L'Hotel de Terra*, at Paris, we used to withdraw, not knowing what they had to say together.

Mr. Matthew Scott saith, that he paid several Sums to the Dutchess, from the Duke; in May 1688. he paid 125*l.* for the Dutchess, to Mr. Cragg; he paid 2 or 300*l.* into France, when the Duke and Dutchess were there; he cannot say, that he remitted any Money into France, after the Duke came home; he knows not that any Money was paid to Mr. Morton for my Lady, by the Duke's Order.

Mr. Robert Welborne saith, that about the middle of November last, the Duke of Norfolk sent for him by Mr. Scot, to meet his Grace in his Room, by the Lords House, which accordingly he did; his Grace told him, there had been some Mesages and Proposals, by Sir Robert Clayton and Sir Robert Howard, but he lookt on them both, to be Men of great Busines, and could not attend on such Matters, and therefore he sent for him, knowing him to be willing, to do any Services between them. The first thing his Grace desired, was to acquaint his Wife, and the Lady Peterborow, and he thinks he Named the Lord Peterborow, that he expected to be Indemnified from the Dutchess's Equipage; for, says he, I hear she is setting up for a great Equipage, and I desire to be free from being obliged to pay for any of that; he told his Grace, that he thought he was misinform'd, for all the Equipage he saw, was a Coach, Coach-man, two Foot-men, a pair of Horses, and two or three more Servants; but, says his Grace, I formerly paid Money for her, to one Mourton, and should be unwilling to do so again; I presume my Lord Duke, said he, that was a Debt contracted, while your Grace and the Dutchess lived together; but says his Grace, pray do you acquaint them of it, for this is what I expect.

Next, says his Grace, my Wife has some pretentions upon *Castle-Rising*, which I could Sell without her Consent, by losing Two Thousand, or Two Thousand Five Hundred Pounds; and besides, I find she hath also a pretention upon *Billing*,

Billing, which I never knew till very lately, when I was upon Selling of that Revision; but, I should have been an ill man, to pretend to do that if I had known of any such Incumbrance. Therefore, I would have you tell my Wife, that if she will consent to the Sale of those Estates and make me easy in that particular; let her consider, wherein I may make her easy, and I shall do it: I know she was a great Lover of *Drayton*, and I suppose is so still; and she did once offer me a considerable Sum of Money for my Life in it; therefore let her consider of this Matter, and if she can propose any thing for her ease and quiet, on these Terms, I shall comply with her.

I do not say it to threaten her: But I am told, that for the Reason of there being either One and Twenty, or Two and Twenty *Catholick* Heirs of my Family before One *Protestant* One; if I would bring in a Bill of Divorce, I should obtain it on that account; he told his Grace he should be sorry to hear of any such thing: But in Obedience to his Grace's Commands, he would acquaint the Dutches with it; accordingly he did, the same day, and Lady *Peterborow* both; her Grace was very Grace was very angry at the Message, especially at that part that mentioned a Divorce; and he was sent the next Morning to Mr. *Scott*, to desire him to acquaint the Duke, that as he was my Lord *Peterborow*'s Servant, it was not fit for him to receive nor bring such Messages. But if his Grace had any thing to say, it was most proper, by a Servant of his own, or to send for one of hers. I carried the Message the next Morning to Mr. *Scott*, and at my return Home, the Dutches shewed me a Letter she had Writ to the Duke, to the same purpose, and which was sent to his Grace, but not by him; the Dutches did declare, when he proposed the Sale of *Castle-Rising* and *Billing*, as the Duke had desired, that she would never Consent to it. By any of this Discourse it did not appear to him, that the Duke showed any Inclinations to live with the Dutches, nor did he understand it so,

Observations upon the Depositions of Mrs. Judith Stourton, Edith Sawbridge, Elizabeth Camell, Mr. Mathew Scott and Mr. Robert Welborne.

THE Reader will find this Discourse about Mr. *Germaine* and the Dutches, to be a Scandal of a matter of Six Years standing; *Hudson*, a Cast Footman, has sworn to the Shirt and Wastcoat, and that he immediately told my Lord of it. *Ann Burton* swears likewise (with another false Oath between her Teeth) that this Shirt and Wastcoat were sent by the Duke to the Lord *Peterborows*. It follows now to be noted, what course has been taken from the First to the Last, for a thorough Discovering of the Truth of this Matter, and now it comes to pass that the Thunder-Bolt should hang in the Air, so many Years, after the Breaking of the Cloud.

Mrs. Stourton is here upon her double Oath, first under the Shrift of the Duke and my Lord *Peterborow*, who took her privately and Adjured her, as ever she hoped to see God in Heaven, to declare what she knew as to the Dutches being an Adulteress, she purg'd her self upon her hopes of Salvation, that the Dutches was as Virtuous as any Woman alive for ought she knew; she swore the same thing over again at the Bar of the House of Lords; and being Interrogated about the Shirt and Wastcoat before spoken of, she swore likewise, that she saw no Shirt or Wastcoat at that time.

Edith Sawbridge was now produc'd against the Credit of Mrs. *Judith Stourton*, and lays the Stress of her Evidence upon what *Mrs. Kniffton* said, which has been the very Pinch of the Question throughout the whole Cause, and the Prosecution has still been at a fault when it came to any material Point; that is to say, only the Hear-say Witnesses are produced, and those that can speak upon Knowledge, and positively to the Fact, are withdrawn, or conceal'd, contrary to the Practice and Reason of all Judicial Proceedings.

Mrs. *Stourton* is called in again to confront *Edith Sawbridge*, and denies every Article in her Deposition, one by one, that is of any moment; but at the same time there appears no Exception, on the other hand, to the Credit of Mrs. *Stourton*: Neither is it to be imagin'd, that any Woman should dare to swear false, in a Case where two such Witnesses should be privy to the Perjury.

It follows now to be noted, what Course has been taken for a thorough Discovery of this Intrigue, according to the usual Methods of Honour and Justice. The Examination of Mrs. *Stourton* by the Duke and my Lord *Peterborow*, was as solemn, strict and private as the Case required; and it was while the Clamour was fresh too: So that there was no Time lost when they enter'd upon the Scrutiny. It will be seen in that which follows, by what degrees the Heat of this Calumny cool'd, and what brought it on again.

The Duke and Dutches went for *Frnce* together, about a Week after the Breaking out of this Clamour, and *Elizabeth Camel* waited upon the Dutches; who swears, that they went lovingly together, and parted with Tears on both sides; my Lord telling her Grace at Parting, that he would fetch her away suddenly. They eat and drunk together every Day, and were frequently together in private; but she cannot say they lodg'd together. So that thus far, in all outward Appearance, the Mis-understanding seem'd in some measure to be composed.

Mrs. *Scot* speaks only to the matter of Monies, and Accounts, which is little or nothing to the purpose in this place, except only as to the One Hundred Twenty and Five Pounds, mentioned to be pay'd by him, for the Dutches's use; which was a Quarterly Payment out of Five Hundred Pounds *per Annum*, adjudged and ordered by the High-Commission Court to be pay'd to her, in lieu of Alimony.

But Mr. *Robert Wellborne* comes to the very Merits of the Cause, and the present State of the Question. He deposes, that in November last the Duke sent for him, and told him (among other things by the by) that the Dutches had some Pretensions upon *Castle-Rising*, and also upon *Billing*; and thereupon order'd the Witness to give her Grace to understand, that if she would consent to the Sale of those Estates, and make the Duke easie in that particular, let her but consider wherein he himself might make the Dutches easie too, and upon those Terms he would do it.

His Grace told the Witness farther, that there being One or Two and Twenty Catholick Heirs to the Family, before one Protestant Heir, if (says his Grace) I would bring a Bill of Divorce, (I do not say it to threaten her) I could obtain it on that Account. The Witness acquainted both the Dutches and the Lady *Peterborow*, the very same Day, with the substance of this Message, her Grace taking it very heinously to be told of a Divorce; and the next Day the Dutches shewed the Witness a Letter she wrote to the Duke upon this Occasion; declaring, that for *Castle-Rising* and *Billing*, she would never part with them.

It appears from hence, that upon the Examination of Mrs. *Stourton*, and other necessary Enquiries into the grounds of this Scandal, the violence of the first Impression was so far taken off, that according to the Evidence of *Eliz. beth Camel*, my Lord was pleased to treat the Dutches with all Instances of Tenderness and Respect, both upon their Passage into *France*, and upon the Places there, those of the Bed only excepted. In this state Matters have continued some five or six Years now, without any Speech or Thought of a Divorcee, that ever the Dutches heard of till Mid-November last, in a Message by Mr. *Welborne* from the Duke, and that was but upon a certain Condition neither, however it was improved afterwards into a Bill, that upon the seventh of January following was formally brought into the Lords House.

The Reader will need no other Light to a true understanding of the Strait her Grace was in, upon this Surprize, and the Disadvantages she was exposed to, than what he has here before him, in the Order of the Journal it self: Where he will find the Dutches so scanty for time to produce Witnesses, and prepare her Defence, that it was a wonderful Providence she should do so much as she did. Though in the mean while, her Grace has lost the benefit of several considerable Witnesses, for want of time to find them out, and bring them together. Now as for Mr. *Welborne*'s Deposition, it carries the Countenance rather of a Treaty than an Accusation; the Duke's part is only a calm deliberate Discourse, consulting the Reciprocal Ease both of himself and of the Dutches. Terms are proposed and promised, and not one Word or Glance of Reprach from one end to the other of it. Mr. *Welborne* (upon the Duke's asking him, at the Lord's Bar, if by his Discourse he understood an Inclination to live with the Dutches) 'tis true, did not gather from his Words, as if he had any thought of living with her; the only hard thing said, was that about his Catholick Heirs, which seem'd to turn the Cause of Adultery into a Cause of Religion. Let any Creature judge now, whether the Dutches durst to have stood it out thus, if she had been guilty of so foul a Crime, when she might have been safe and free, as appears by the Proposal, upon Terms so much more easy.

To make a short Summary now of the Whole, a Word first to the Character and Quality of the Witnesses.

There is *Owen*, a Street-Porter, brought in as a Witness to the Privacies of the Dutches's Bed-Chamber, besides several unanswerable Exceptions to the Particulars of his Evidence. There is *Ellwood*, a Coblers Wife, and a Gilding little Slut, that's as palpably detected of Falsity, as the other. *Hudson*, a poor Roguy, Tricking Footman, that was turn'd off for his ill Behaviour. *Burton*, a beggerly Wench, that cheated her Landlady, and forswore her self in this Cause at the Lords Bar: *Varellt*, a Painter, and by Intervals, a Madman: *Foster*, a Coachman that was turn'd off by his Master, and swore to be reveng'd of him. *Lloyd*, under several manifest mistakes, but nothing to the main Cause. *Scriber*, *Anderson*, *Hemming*, *Reynolds*, and *Margaret Foster*, say not one word to the purpose: *Wadsworth*, a pilfering Servant, that robb'd her Mistress, and her Evidence most notoriously expos'd.

Now, as these Witnesses are of very little value upon the Stock of their own Credit, so the Witnesses against them cannot be deny'd to have a fair Reputation, on the other hand. And it is very extraordinary, that after the naming of so many Persons in their Depositions, that said, or did, or heard,

or saw this; or that the Prosecutors have not brought in so much as one Creature to second the Swearing Evidence: Tho' it is sufficiently known, they could have found them if they would have ventur'd the Cause upon that stress. It is to be consider'd once more, what a difference there has been, betwixt the Demeanour of the one side and the other, towards the Evidence. What Promises, Flatteries, and engaging Obligations on the one hand, and not so much as one Word or Deed, directly or indirectly, that look'd like a Practice or a Prepossession on the other part of the Dutcheſſ.

Let this be taken in the softest ſenſe, for it is a great Misfortune, when officious Instruments that are forewarn'd to broach Scandals, meet with eafe and good natur'd Dispoſitions, that are too open perhaps to receive them. This may ſerve in ſome measure, perhaps, to remove the Evidence of thoſe that are not wilfully Deaf and Blind; and for the reſt, it is left to Time and Providence to bring the Truth to light in its due ſeafon, and to vindicate the Cause of the Innocent and Oppreſſed.

F I N I S.
